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Minutes of meetings of the Criminal Justice and Corrections Advisory Council: 1989-1990

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MINUTES

Criminal Justice and Corrections Advisory Council
Meeting #1
Friday, September 8, 1989
Helena, Montana

MEMBERS PRESENT:
Senator Tom Beck, Chairman
Margaret L. Borg
Henry Burgess
Colleen Conroy
Judge Donald DuPuis
Sheryl Hoffarth
Representative Betty Lou Kasten
Mike Lavin
Ted O. Lympus
Walter J. Moore
Senator Pat Regan
Dan Russell
Sheriff Mike Schafer
Debbie Swanson
Representative Bob Thoft

MEMBERS ABSENT:
Chris Christiaens
Representative Helen O'Connell
Judge Thomas A. Olson

GUESTS:
Governor Stan Stephens
Curt Chisholm, Director, Dept of Institutions
Jack McCormick, Montana State Prison
Dan Mulloughney, Swan River Forest Camp
Steve MacAskill, Women's Correctional Center
Marilyn Miller, Human Services Coordinator
Sandy Whitney, Legislative Fiscal Analyst

STAFF:
Susan Byorth
Ted Clack
Rich Petaja

CALL TO ORDER:

Chairman Beck called the meeting to order at 9:05 a.m. in the Governor's Conference Room.

GOVERNOR'S COMMENTS:

Governor Stan Stephens welcomed the Council and outlined the issues to be studied: overcrowding at Montana State Prison and Women's Correctional Center; research on sentencing alternatives; and, alternatives to incarceration. He invited the Council to make specific recommendations and

welcomed the members as a qualified, diverse, dynamic group with real skills to offer. He wished the Council well and pledged his full cooperation.

At the conclusion of the Governor's remarks, the members of the Council and all present at the meeting introduced themselves.

DIRECTOR'S COMMENTS:

Curt Chisholm, Director of the Department of Institutions, gave a description of the department and its responsibilities and distributed an organizational chart. Ideologically, the department is expected by the public to provide remedies for the ills of society for reasons of public safety and rehabilitation. The department has outgrown this publicly expected remedy.

The department in the past has focused too heavily on institutions, and will be instituting a sense of reform to create a different perception of the department. The perception should reflect the continuum of human services that the department provides, instead of focusing only on institutional aspects. In corrections, as well as treatment services (which includes mental health and chemical dependency), the department supervises many community programs as well as operating institutions. Mr. Chisholm wants his division administrators to concentrate on managing systems as a whole, instead of institutions.

In this systems management approach, the department will hold quarterly meetings involving all who are involved in a particular system. For corrections, this includes institutions as well as pre-release centers, and field services. Representatives from the Board of Pardons are also included, though attached to the department only administratively. This approach also includes developing databases to reflect the systems to be utilized in assessing capabilities and shortages. This activity will enable department staff to see what is going on and to discover why. For example, it has recently been learned that a high number of inmates waive their first parole appearance. This is a new area to explore for possible solutions to problems which contribute to overcrowding.

The department also must take a more active role in fashioning public policy, Mr. Chisholm said. Traditionally, the department kept a low profile until crises forced the issue, and any exposure was then negative. The department has not taken firm positions in legislative committees. Mr. Chisholm believes that the department should assume an aggressive, high profile in its leadership positions to help

fashion public policy based on a good corrections policy. Mr. Chisholm also shared his desire to involve advocacy, consumer and professional groups to comment and provide constructive criticism because these groups should be involved in the communication of the problems as all share in the impact.

GRANT STATUS

Susan Byorth gave an overview of the funding for the Council. The Council is funded by the Bureau of Justice Assistance. Montana is one of 12 states funded through the Prison Capacity Program. Dan Russell has received verbal assurance that funding has been extended to June 30, 1990, and supplemental funding can be applied for in the future. Mr. Russell gave a brief history of how the funding and the first Council came about. He stressed, though, that this is a new Council created by a new Executive Order and that we will start fresh, with a defined task set out for us.

Curt Chisholm discussed the three areas which the Executive Order addresses: mainly, the population pressures in the system, the women's correctional system and sentencing. He made the suggestion that the council may want to divide into three subcommittees so that each issue can be studied more completely.

There was a general discussion of legislative impacts on corrections. The consensus is that both legislators and the public need to be better educated about corrections and the costs associated with certain legislation. The example given was legislation which would have required those convicted of a fourth DUI to serve a prison sentence. In regard to this and any issue, system-wide impact, cost, and public safety factors must be kept in consideration. In regard to DUI, the public needs to assess whether prison is the proper punishment or if there are other issues to consider. It was suggested that the state's DUI Task Force should be contacted in order to express such concerns.

Prison populations will continue to rise as technology gives law enforcement better investigative resources. If those convicted of crimes are not housed in the state prison, they will affect local jail populations. Those who clamor for more punishment often are the ones most opposed to paying for more jails, etc. Public education is necessary for people to understand the situation and choose the solutions wisely, knowing the full costs. Corrections is one of the largest growth industries and is very difficult to manage and predict. There are so many factors that impact the system that all options must be explored. The question of use of local detention facilities that are not in full use

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was raised. The director said that the door is open to explore options and incentives for local law enforcement agencies.

The meeting recessed at 10:35 a.m. The Council reconvened at the Department of Institutions Conference Room at 11:00 a.m.

OVERVIEW OF CORRECTIONS

Dan Russell, Corrections Division Administrator, presented the Corrections Division organizational chart. Curt Chisholm described the relationship between the Board of Pardons (BOP) and the department. The BOP is a quasi-judicial board with statutory power to grant parole releases to those who are eligible. The Board is attached to the Department for administrative purposes only. The point was made that the policies of the Board and of Institutions must be made more explicit and reflect public opinion. If there are areas that are problematic, they should be identified and changed. An example of a policy issue which may be problematic is the high number of waivers of the first appearance before the parole board.

Mr. Russell gave an overview of the corrections policy of the state (on file), the corrections division, the institutions and community programs. The administrators of Montana State Prison, Swan River Forest Camp, and the Women's Correctional Center were present to answer questions and comment. (Staff Report "CJCAC Preliminary Data 9/8/89" is on file)

The Council recessed at noon and reconvened at 1:15 p.m. at the Department of Institutions' Conference Room.

Director Chisholm gave a systems overview of correctional programs and institutions, their past and present capacities, populations, and budget limitations. He explained the pressures which brought about the cap on prison populations in July, 1989, and the importance of monitoring these populations on a regular basis in order to manage the system and respond to population problems.

PRISON DEMOGRAPHICS

Ted Clack presented information on prison demographics: state population; crime rate and statistics; prison populations and admissions; average sentence length; and, inmate offense crime type (data included in "Preliminary Data"). Though the population in Montana has been declining since 1985, and the crime rate has declined since 1980, prison populations and admissions are up. The average

sentence length is increasing but inmate offense types are stable. These statistics lead to the conclusion that stronger prosecution and sentencing are leading to the increase in populations and admissions, rather than the traditional factors of higher populations and crime rates.

UPDATE ON LEGISLATION

Susan Byorth gave a brief update on legislation passed from the past Council's recommendations, as well as the population impact of other legislation which has an effect on the corrections system. (Staff Report "Legislative Impacts" on file). The end result is that the former Council's potential impact on reducing overcrowding was offset by other legislation passed by the legislature. This points to a need for better understanding of legislation and analyzing its impact on corrections.

WOMEN OFFENDERS

A copy of SB 38 (on file) was distributed to the Council. SB 38 orders the Department of Institutions, in cooperation with the Criminal Justice and Corrections Advisory Council, to develop a comprehensive plan for housing women inmates. Susan Byorth presented reports on: 1) the "History of Women Inmates"; and, 2) a "Profile of Adult Female Inmates in Montana" (reports on file). The former follows the history of incarceration of women offenders and their demographics from 1871 to present day. The latter covers 1980-1988 and includes demographics, length of stay, average sentence length, types of offense, admissions and populations.

SENTENCING STUDY

Susan Byorth presented a progress report on the on-going sentencing study. Preliminary data was distributed to the members (Staff Report "Sentencing Practices in Montana: An Overview" is on file). The study is of felony convictions in 1987 in eight counties. Information was presented on the types of sentences imposed, average length of sentence, financial obligations imposed, offender demographics (sex, race, marital status, and employment) and prior convictions, and incarcerations. A final report should be completed by the end of the year.

DISCUSSION OF ISSUES

Director Chisholm suggested dividing the Council into three subcommittees to study the issues of 1) population pressures

and overcrowding of Montana State Prison and the Women's Correctional Center; 2) female offender population problem and alternatives; and, 3) current sentencing practices and how they impact populations. He asked the Council to be continually constructively critical of the department for how responsible it is in managing its correctional responsibilities in these three major areas. Mr. Chisholm wants the department to examine all remedies and be on top of the problems plaguing the system. He commented that, for example, many of the admissions are probation and parole violators and that is an issue to be addressed internally in the department's policy. Second, Mr. Chisholm asked the Council to evaluate correction events and to look for cause and effect relationships, e.g. prison space available and judge's sentencing practices. Third, he asked the Council to watch for the "Willie Horton syndrome." Mr. Chisholm asked the Council whether, as a state, we are naively conservative because of the implications of liability and a few sensational cases and then act too conservatively to the detriment of those who could benefit from less-restrictive environment. And what is the main-street view in Montana? There seems to be a perception of the prison being filled with despicable characters, drug addicts, rapists etc, but there are some who do not fit these stereotypes and may be dealt with more successfully in other types of environments than the prison.

Mr. Chisholm introduced the chairman of the Board of Pardons, Henry Burgess. Mr. Burgess let the Council know that he and his staff are available to answer any questions about the Board and the parole system. Mr. Burgess teaches at Carroll College in Helena and will make himself available to you as needed.

The chairman summarized the direction he wished the Council to go and asked for suggestions on the formation of developing subcommittees. He asked the members to state their preferences for committee assignments and said he would develop the subcommittees and get back to the members by the next meeting. He suggested that the next meeting be held in Deer Lodge to enable the members to see the facilities of Montana State Prison, the Women's Correctional Center, and possibly the Board of Pardons.

Wednesday, October 18 was chosen as the tentative date of the next meeting, in Deer Lodge.

ADJOURNMENT

The Council adjourned at 4:00 p.m.

MINUTES

Criminal Justice and Corrections Advisory Council
Meeting #2
Tuesday October 17, 1989
Warm Springs, Montana
Wednesday October 17, 1989
Deer Lodge, Montana

MEMBERS PRESENT:
Senator Tom Beck, Chairman
Margaret L. Borg
Chris Christiaens
Colleen Conroy
Representative Betty Lou Kasten
Ted O. Lympus
Representative Helen O'Connell
Judge Thomas A. Olson
Dan Russell
Sheriff Mike Schafer
Debbie Swanson
Representative Bob Thoft

MEMBERS ABSENT:
Henry Burgess
Judge Donald DuPuis
Sheryl Hoffarth
Mike Lavin
Walter J. Moore
Senator Pat Regan

GUESTS:
Curt Chisholm, Director, Dept. of Institutions
Keith Wolcott, Deputy Director, Institutions
Jack McCormick, Montana State Prison
Steve MacAskill, Women's Correctional Center
Marilyn Miller, Human Services Coordinator
Mary LaFond, Office of Budget and Program Planning
Jack Lynch, Executive Secretary, Board of Pardons

STAFF:
Susan Byorth
Ted Clack
Rich Petaja

Tuesday, October 17

TOUR OF THE WOMEN'S CORRECTIONAL CENTER

Steve MacAskill gave the Council a tour of the Women's Correctional Center on the Warm Springs campus. Louise McLeod, Social Worker, also was present to answer questions. The Council then went to the former forensic unit and toured

both the side being renovated for women offenders and the side occupied by 31 male inmates. The Council also toured the new Forensic facility at Montana State Hospital.

Wednesday, October 18

TOUR OF MONTANA STATE PRISON

Jack McCormick gave the Council a tour of the Montana State Prison. The tour included the maximum security facility, close and minimum security, prison industries, Rothe Dorm, Reception, the cafeteria, and the Religious Activities Center, where the remainder of the meeting was held.

CALL TO ORDER:

Chairman Tom Beck called the meeting to order at 1:15 p.m. in the Religious Activity Center at Montana State Prison.

Chairman Beck introduced Judge Thomas Olson from Bozeman, Representative Helen O'Connell from Great Falls, and Chris Christiaens from Great Falls Pre-Release to the Council (as they were not able to attend the first meeting).

The minutes from the September 8 meeting were approved and adopted.

DIRECTOR'S COMMENTS:

The Department of Institutions Director, Curt Chisholm, first introduced Jack Lynch, the Executive Secretary to the Board of Pardons. Mr. Chisholm then suggested directions for the Council to proceed. A. That the remainder of the meeting be spent as the first meeting of the subcommittees; B. that the next meeting will be a discussion by the whole committee, and C. That it is up to the Department to bring issues before the Council, in the three areas represented by the subcommittees, and to suggest strategies based on a sound correctional policy. The goal of these activities is initially to give to the Department, and ultimately to the Governor, the Council's collective judgment on the wisdom of

that correctional policy, whether regarding procedural or program issues. Because those goals have implicit costs, it is up to the Council to decide whether those costs are reasonable to expect taxpayers to support. The corrections division staff needs the Council's assistance in defining what is an acceptable correctional position for the Department. The Department is responsible for steering the Council in the right direction as to the fundamental issues and problems and to bring to the Council tentative suggestions on how to resolve them. With this information, the Council can assess the suggestions, given their areas of expertise, and give a collective opinion as well as offer ideas.

The Council will be supported by the Department staff to provide the necessary information and statistics to give insight into the program issues at hand. If there is a need to bring in outside expertise, the Department will research funding for that purpose. The work of the Council is a priority for the corrections division as it will help to set the short-and long-term course for corrections for the state.

These first two meetings have been orientational and informational briefings of the correctional system. The Department is going to be proactive with a systemic approach, and the Council should operate within the same framework. For subsequent meetings, information will be sent to the members to study in advance for discussion at the next meeting.

NEXT MEETING

The date for the next meeting was set for Wednesday, November 29, 1989 in Helena, at the Department of Institutions.

The subcommittee on women offenders will hold an interim meeting in Billings at the Life Skills Center sometime the week of November 13 (exact date to be determined).

INVITATION TO ATTEND PAROLE HEARINGS

Susan Byorth extended an invitation from Henry Burgess to the members of the Council to attend a parole hearing. He would prefer that no more than two members attend any one hearing. As soon as the November schedule is set, staff will mail it out and assist members in scheduling a date to attend a hearing. Most parole hearings are done at the prison in Deer Lodge, but there may be a possibility of attending one at Swan River, or at a pre-release center around the state.

Mr. Chisholm gave the Council members an example of an issue to be explored, and how to generally proceed. Of the annual admissions at MSP, a high percentage (33% in 1988) of these are coming in as violators of probation or parole. These people were determined safe for supervision, but there was some problem with supervision and their parole or probation was revoked. This is an area that the department can work on administratively to control the population, but has no policy set forth. A policy should be developed on a series of graduated sanctions, with Montana State Prison as the last resort. Mr. Chisholm wants the department to bring the council information on options in order to develop a policy and, if necessary, ask for an appropriation to fund it.

SUBCOMMITTEE MEETINGS

The Council members broke into their respective subcommittees (see minutes for each subcommittee).

The Council readjourned and a report was given from each subcommittee:

Ted Clack reported from the Subcommittee on Prison Overcrowding. He listed numerous requests for information the subcommittee members would like to study: jail costs, contracts for detention facilities, in-patient sex offender treatment separate from the prison, sex offender statistics, expanding the pool of inmates for pre-release, sentencing trends for drugs, and the reasons behind parole waivers and

annual review status. The subcommittee hopes to hold a meeting prior to the next Council meeting, dependent on the progress of this research.

Senator Beck reported from the Subcommittee on Women Offenders. Dan Russell told the Council that since a new facility is a possibility, the subcommittee members requested that he look into obtaining technical assistance from someone who could visit Montana's facilities, let us know what is available nationally, and give us an idea of a direction that Montana should follow. Mr. Russell will report to the subcommittee as to his findings. Senator Beck reported that the subcommittee will also look into other options, their costs, and will present a number of options. The Subcommittee on Women Offenders will meet in Billings sometime the week of November 13 to tour the Life Skills Center (women's pre-release).

Ted Lympus reported from the Subcommittee on Sentencing and Release Practices. He reported that sentencing is an important factor in overcrowding. The subcommittee will review sentencing practices in Montana to determine how they contribute to the problem of prison overcrowding. The subcommittee also will look at uniformity in sentencing and review parole. The subcommittee was given materials on sentencing, parole and good time and will be reviewing this and other information.

ADJOURNMENT

The Council adjourned at 3:00 p.m.

MINUTES

Criminal Justice and Corrections Advisory Council
Meeting #3
Wednesday, November 29, 1989
Department of Institutions
Helena, Montana

MEMBERS PRESENT:
Senator Tom Beck, Chairman
Margaret L. Borg
Henry Burgess
Chris Christiaens
Colleen Conroy
Judge Donald DuPuis
Sheryl Hoffarth
Representative Betty Lou Kasten
Mike Lavin
Judge Thomas A. Olson
Senator Pat Regan
Dan Russell
Sheriff Mike Schafer

MEMBERS ABSENT:
Ted O. Lympus
Walter J. Moore
Representative Helen O'Connell
Debbie Swanson
Representative Bob Thoft

GUESTS:
Jack McCormick, Montana State Prison
Steve MacAskill, Women's Correctional Center
Mary LaFond, Office of Budget and Program Planning
Jack Lynch, Executive Secretary, Board of Pardons
Craig Thomas, Administrative Officer, BOP
Scott Crichton, ACLU

STAFF:
Susan Byorth
Ted Clack
Rich Petaja

CALL TO ORDER/ ADOPTION OF MINUTES

Chairman Tom Beck called the meeting to order at 10:15 a.m.

The minutes from the October 17 and 18 meeting were approved and adopted.

NEW BUSINESS

The National Institute of Corrections (NIC) has agreed to fund technical assistance on the issue of women's

corrections. We have asked two consultants, Jacqueline Fleming from the Shakopee Women's Facility in Minnesota, and Jennie Lancaster from the Woman's Command in North Carolina. Dan Russell explained that the consultants were chosen from a list of five recommended by NIC. These consultants will complement the expertise we have in the state and were chosen in order to provide us with information regarding institutional issues and programming in the nation and their respective states.

Susan Byorth proposed a January meeting with the following schedule:

Monday, January 8- Give consultants a tour of the Women's Correctional Center, and time to meet with WCC officials and representatives from the Department of Institutions.

Tuesday, January 9- Working meeting with the Subcommittee on Women Offenders.

Wednesday, January 10- Meeting with the full Council. The consultants will give a short presentation to the full Council on their observations.

The issue of public comment was also raised. Staff has received inquiries from groups such as the Montana Mental Health Association, the Montana Association of Churches and the ACLU. The Council approved the above schedule and following the consultants' presentation, the Council will take public comment.

The date for the next full Council meeting was set for Wednesday, January 10, 1990, in Helena, with the consultants presentation and public comment to be held in the morning and subcommittee meetings in the afternoon.

Mike Lavin reminded the Council of the work of the Legislative Interim Committee on Adult and Juvenile Detention, of which Senator Halligan is the chair, and asked that staff request a representative or staff of that committee to join us to comment on what they are doing. Council staff is attending their meetings.

BJA CLUSTER MEETING

Susan Byorth reported on the BJA Prison Capacity Program Cluster Meeting in San Francisco which she attended with Senator Beck. The meeting consisted of representatives from nine states who are receiving similar funding. The topic was public opinion polls, and she reported on a project in Alabama funded by the Edna McConnell Clark Foundation. She also learned of a project which assisted judges in reviewing sentencing practices. There is funding available for workshops or retreats for judges, parole boards and

probation and parole. Presentations were given by the states of Alabama and Virginia on their progress and use of media to educate the public and change public opinion.

Senator Beck reported that all states are having prison overcrowding problems and Montana is fortunate not to have some issues which are present in other states. The example was given of a state in which prisoners remain in local jails until the state comes to pick them up, therefore creating crisis conditions at the local level. He sees the public opinion poll as having a place in Montana and can be used to convince the public of the problems of overcrowding. Most states are trying a combination of some building and innovative ideas to deal with overcrowding, but the short term solution seems to be building.

Sheriff Schafer had attended a meeting of Urban Sheriffs in Denver, and reported the problem from a law enforcement perspective. Local jails are experiencing overcrowding also, and he gave an example of Cook County, Illinois which has jail inmates on the floor and is currently in court over the issue.

Dan Russell reported that organizations like the Edna McConnell Clark Foundation, the National Institute of Corrections and the National Council on Crime and Delinquency know that jails and prisons are overcrowded and are concentrating their funding efforts into the study and implementation of intermediate sanctions and alternatives. He said that examples of states which are said not to have an overcrowding problem are not including the impact on local jails, and they are almost all experiencing overcrowding if you look at the entire system of jails and prisons.

Judge Tom Olson shared a Bozeman Chronicle news editorial which stated that sex offenders are not sentenced harshly enough and demanded that judges hand down tougher sentences. He commented that the courts have no real voice so editorials such as these go unanswered.

Dan Russell reported on a corrections meeting in Orlando, Florida. The topic was drug money and he reported that the expectation is that little money will come to the states. No one was able to explain how the determination was made whether to prosecute in the federal system or the state system. Some explanations were offered that it depends on who does the investigation, or whether a federal offense such as drug trafficking across state lines is involved. Russell suggested a dialogue with the US attorney to encourage them to prosecute drug cases in the federal system since they will receive the bulk of the drug money. Jack

McCormick explained that since the federal system has abolished parole and because they are under sentencing guidelines, from 1992 to 1995 the federal system will run out of room and the responsibility will be more than likely be left to or come back to the states.

There was discussion on the prison cap and its impact on local jails and whether the state is funding jails which abide by the cap. Dan Russell said currently the state is under the cap, but is accepting inmates, all the prison asks is a phone call. The state is being billed when a local jail is impacted, but there is no structure in determining payment to local jails. The range has been from $10.00 a day to $65.00 a day and a policy needs to be developed on a fair rate for jail placements. Discussion on what is fair for the jails to charge centered around variable costs per day. Questions of whether fixed costs could also be included were raised. The basic conclusion was that if the jails must add staff, then those costs should be factored in.

Susan Byorth reported that a jail study is being performed by the Legislative Interim Committee on Adult and Juvenile Detention, and that cooperation between the Council and the Committee will allow us access to that information. A suggestion was made to the Advisory Council that they may want to consider forwarding comment or a recommendation to the Legislative Interim Committee after study of the relationship between county jails and the state.

STUDY PLAN/TIME LINE

Susan Byorth presented the Council with a tentative schedule for the next seven months. Preliminary recommendations should begin to be compiled by March, and the final recommendations prepared by mid to late May. A study plan was available to be presented in each subcommittee meeting for discussion and adoption.

VIDEOTAPE: "INNOVATIONS IN SENTENCING"

The Council watched a video sent from the Georgia Department of Corrections on the various programs they offer in a continuum of sentencing alternatives. These included: basic probation, community service, intensive probation supervision, diversion centers, probation detention centers, and shock incarceration or boot camps. Montana uses basic probation and intensive probation supervision. A discussion on boot camps and their viability for the state of Montana was held. Dan Russell reported that there are probably not sufficient inmates which fit the program requirements in the state as those are the inmates eligible for Swan River and

pre-release. The Subcommittee on Prison Overcrowding will be discussing boot camp as a part of their agenda, as well as community service.

The Council recessed for lunch at 11:40 a.m. and reconvened at 1:00 p.m.

VIDEOTAPE: "48 HOURS:WOMEN IN PRISON"

The Council viewed a videotape done by the CBS news program 48 Hours on "Women in Prison." This program included information on topics of babies in prison, shock incarceration, and battered women who turned to murder.

SUBCOMMITTEE MEETINGS

The Council members broke into their respective subcommittees (see minutes for each subcommittee) at 2:00 p.m.

The full Council readjourned at 3:45 p.m. and a report was given from each subcommittee:

Mike Lavin reported from the Subcommittee on Prison Overcrowding. The subcommittee looked at five sanctions: bootcamp, community service, restitution, house arrest, fines and fees. The discussion on boot camp resolved that the target population for a boot camp program was not present and the subcommittee will not pursue the idea any further. (Report: "Boot Camp" Shock Incarceration, on file.)

Population projections were studied for Montana State Prison and by 1995, the institution could be over 1,000 inmates more than current design capacity.

The subcommittee will wait for further information on jails from the Interim Committee on Adult and Juvenile Detention to discuss the issue of jail placement.

House arrest was discussed. Six counties, including Lewis and Clark, are using the program. It is mainly being used at the local level as an alternative to jail. The subcommittee liked the concept, but is not sure how it applies to mitigation of the prison population. Staff will be working on this issue.

In exploring community service, the subcommittee explored differences in use across the state. Missoula County is one which uses community service. Margaret Borg gave an example of those convicted on bad check charges being assigned to community service as well as probation and restitution in order to impact the offender. Yellowstone County was

offered as an example of a county which does not utilize community service very much. The subcommittee will discuss this issue in more detail. They realize the importance of having the prosecutor involved and the need for a local person to organize. Currently, in Missoula County, the offender is responsible to set up a program and the probation and parole officer monitors the program periodically.

Restitution is seen as a viable sanction, but there is no visible impact on the prison population. Very few revocations involve non-payment of restitution solely.

On the issue of fines and fees, information was requested from NIC and the subcommittee will discuss this issue at the next meeting.

The need to address Probation and Parole resources was raised. Either this subcommittee or the Subcommittee on Sentencing and Release will explore this issue.

The Subcommittee has agreed to meet Tuesday, January 9, 1990, at 1:30 p.m. the day before the next full Council meeting.

Judge Tom Olson reported for the Subcommittee on Sentencing and Release. One issue discussed was resources for probation and parole. The state is training P/P Officers and many are recruited by federal probation at a higher rate of pay. The subcommittee will look into the issue of training and compensation.

Pay and training for district court judges was also discussed. Other issues regarding the judiciary include the selection and assignment of judges. In Eastern Montana, for example, they have difficulty getting local lawyers to run for judge and elect lawyers from outside the area to sit on the bench. A judge was assigned to Sidney during the oil boom and since the oil boom is over and caseload reduced, the possibility of moving that judge to an area which needs it will be discussed.

A discussion of whose responsibility it should be to do the pre-sentence investigation work arose. The question of whether it should be a state responsibility as it is now, or if should be turned over to the counties will be discussed.

Issues relating to parole policy will be explored at the next meeting. The subcommittee looked into concurrent and consecutive sentencing. The new legislation which was passed in 1989 making consecutive sentences the default judgment was not felt to be of major importance. Judge

Olson reported that judges are much more conscious of that issue and perhaps it could be one topic included in a recommendation for judges to develop sentencing aids or guidelines.

Good-time was raised as an issue. The relationship between good-time calculation, sentencing and parole was discussed. The many formulas used in calculating good-time were thought to be a problem which judges try to compensate for by handing down harsher sentences. The example of Nebraska issuing good-time at admission, which can then be reduced for inappropriate behavior, was given as a possible model for Montana to explore.

The subcommittee decided to have an additional subcommittee meeting Thursday, January 11, 1990 after the full Council meeting January 10.

Senator Pat Regan gave a report of the Subcommittee on Women Offenders. The subcommittee adopted the study plan and timeline as a tentative guide from which to proceed. The subcommittee tentatively adopted the population projection of 129 women inmates in 1995 as the prudent projection to use in planning. As the recommendation from this Council will be used in the 1991 Legislative Session, it will take a year in planning, approximately a year and a half for building, this puts whatever is recommended in effect in 1993-94. The subcommittee in referring to a list comparing programs and facilities of MSP and WCC, realized that you cannot divorce program and treatment from bricks and mortar. The subcommittee requested further information on population projections from other states and their contracts with the Federal system, and national standards which address equal protection issues.

The next meeting of the Subcommittee on Women Offenders will be held on Tuesday, January 9, 1990 for a working meeting with the two consultants who will be in Helena.

Senator Regan brought forth the point that it is important to make the public more aware of the needs and concerns of the Council. The Council should seek editorials and develop press releases to sensitize the public on this issue. There should be a news release prior to meetings and prior notice to interested persons in order that they may comment. Members of the Council agreed and staff was directed to follow through. The comment was made that it will take good public support to get good political support for the Council's recommendations.

Mike Lavin commented that the Subcommittee on Prison Overcrowding also felt that public relations was important

and intends to follow up on the idea.

Dan Russell noted that two press representatives intended to attend the meeting, but the announcement at Boulder on the future of the Montana Developmental Center was made on the same day. Susan Byorth also noted that a press representative is on the mailing list and is sent information regarding each meeting. Mike Lavin suggested that perhaps interviews or live press coverage should be arranged when the consultants are in Helena in January. Senator Beck reiterated the need to sell any ideas the Council has to the public in order for them to be successful.

ADJOURNMENT

The Council adjourned at 4:10 p.m. until January 10, 1990.

MINUTES

Criminal Justice and Corrections Advisory Council
Meeting #4
Wednesday, January 10, 1990
Department of Institutions
Helena, Montana

MEMBERS PRESENT:

Senator Tom Beck, Chairman
Margaret L. Borg
Henry Burgess
Chris Christiaens
Colleen Conroy
Judge Donald DuPuis
Sheryl Hoffarth
Representative Betty Lou Kasten
Mike Lavin
Ted O. Lympus
Senator Pat Regan
Dan Russell
Sheriff Mike Schafer
Debbie Swanson
Representative Bob Thoft

MEMBERS ABSENT:

Judge Thomas A. Olson
Walter J. Moore
Representative Helen O'Connell

GUESTS:

Dave Armstrong, Alpha House-Alternatives, Inc.
Louise Burke, Tribal Judge, Salish-Kootenai Confederated Tribes
Scott Crichton, ACLU
Mary Gallagher, Protection and Advocacy Program
Tom Gomez, Legislative Council
Rep. Stella Jean Hansen, Montana Mental Health Association
Mary LaFond, Office of Budget and Program Planning
Jack Lynch, Board of Pardons staff
Jack McCormick, Montana State Prison
Steve MacAskill, Women's Correctional Center
John Ortwein, Montana Catholic Conference
Rep. Jerry Rice, Legislative Interim Committee on Adult and Juvenile Detention
Diane Sands, Montana Women's Lobby
Steve Shirley, Great Falls Tribune
Evelyn Stevenson, Attorney, Salish-Kootenai Confederated Tribes
Craig Thomas, Board Of Pardons staff
Kevin McRae, Lee Newspapers State Bureau
Mignon Waterman, Montana Association of Churches
Sandy Whitney, Legislative Fiscal Analyst

STAFF: Susan Byorth
Ted Clack
Rich Petaja

CALL TO ORDER/ ADOPTION OF MINUTES

Chairman Tom Beck called the meeting to order at 9:15 a.m.

The minutes from the November 29 meeting were approved and adopted.

NEW BUSINESS

The date for the next full Council meeting was set for Wednesday, March 14, 1990, in Great Falls, at the Great Falls Pre-Release Center.

CONSULTANTS PRESENTATION

Senator Beck turned over the meeting to Senator Regan, chair of the Subcommittee on Women Offenders. She introduced Jennie Lancaster from North Carolina and Jackie Fleming from Minnesota. Senator Regan toured the Women's Correctional Facility with Ms. Lancaster and Ms. Fleming, Ms. Hoffarth, Mr. Petaja, Mr. Crichton and Ms. Byorth on Monday, January 8. The Subcommittee on Women Offenders met Tuesday, January 9 to discuss their findings.

Jacqueline Fleming is the Superintendent of the Minnesota Correctional Facility for Women in Shakopee. Shakopee has the newest women's facility in the country, opened in 1986. She thanked the Council for an exhausting and interesting trip. She told the Council that this state is very fortunate to have a group interested in this subject, and that the group has interest from the necessary areas of community support, legislative support and departmental support. The Council was directed by an Executive Order to study the issue of women offenders and Ms. Fleming cautioned the group not to study too long. Montana's population has increased drastically, 141%, since 1981 compared to Minnesota's increase of 105%. This follows the national trend of the rate increase for females being higher than males. She advised that this state will have to do something soon, as not much has been done in the past. It is time to do something out of humaneness. Female inmates do not need to be coddled, but do have different needs than men that need to be addressed in order for the women to gain something before they leave prison.

The real problem in Montana is not enough staff for the two facilities. She was shocked to see our women's prison. There is not enough room for anything, and especially not enough staff, even for security. There is little or no room for programming, no vocational training and/or work programs compared to the men's prison. The women are sitting or working only 1 1/2 to 3 hours a day, due to lack programs and of space for programs. The discipline reports and suicide watch have increased. Staff is burned out and discouraged and Montana is sitting on a time bomb.

There are some positives: A dedicated, yet, burned out staff, some educational programs, a parenting program, recreational and physical education programs. Montana has the start of a good program, yet not enough programs and not enough room for more programs. Staff dedicates most of their time putting out fires, and does not have enough time for administrative duties.

Why should we even care about women? First, out of humaneness, and second, because they are the parents of the next generation. Ms. Fleming gave a profile of women offenders, which are unique and the differences must be kept in mind. The women are extremely dependent, and will tolerate conditions men won't. Women often commit crimes with men to show love. They are dependent on men for identity, emotional identity, economics, and even things such as driving, and are often dependent on pimps and pushers. When things get tough, women get ill. Many are dependent on drugs and booze. Eighty to ninety percent of women have been used and abused by men throughout their lifetime, physically, emotionally and sexually. Most have been sexually abused as children and adults by men, and then get into a criminal justice system comprised mostly of men. For the most part, women are and will be single parents. They are responsible for kids and the separation causes much guilt. Women often leave prison with nothing and must start new homes. They have minimal, if any, work experience that is legal. When they first come to prison, you must start teaching them to get up to go to work. They have a lack of self-esteem, are helpless and failure-oriented, have not had successes in life in anything and come from families who are the same way. They lack positive role models, and they relate in an emotional fashion. This brings concerns of lesbianism which there is less than one reads about and is less violent than in male institutions. They have a lot of emotional and physical baggage, and often come to prison with everything they own. Women are not reared to live in groups. These are the unique things that must be considered when you are trying to plan something for women. They also need to be in an area where they can see their families.

Ms. Fleming commented on national trends and those in her institution. Shakopee has a parenting program. In another program started in 1972, the women are allowed to have their families for the weekend. This program is temporarily on hold. There is an interactive television program which is costly, but with a small program you must offer something. It is hooked up with the local school district and a vocational school. Shakopee offers an off-ground training program (which is not work-release). When a women meets certain criteria, they meet with another agency and write out a custody agreement, which is approved by the superintendent, Attorney General, and the deputy superintendent of the department of corrections. They transport the inmate to a work facility who takes custody of the inmate for the day. It is a way to diversify programs for small numbers without great cost.

Ms. Fleming said in her career she has realized it is a lonely job to be a superintendent or warden of a women's program. You cannot get support within your state as there is usually only one women's facility, and staff must attend national conferences and become part of the network of wardens of women institutions.

Jennie Lancaster has been in corrections for eighteen years, eight years as a correctional officer in a men's prison, as an assistant warden and warden for the women's institution. She is currently in a position, which only 5 other states have, as the central office administrator for women, in North Carolina called the Female Command. She told the Council that Montana as a state has taken a big bite, by getting the right actors together: the department, the legislature, the Governor's office and the public consumers' groups. Talking about corrections issues is not popular, but necessary.

There are about 6 or 7 national trends. The first trend, which affects Montana, is that the women offender population nationally is skyrocketing. Traditionally, women's prisons have been located in rural, temporary buildings. Two words go along with women's prison, one is "temporary" and the other, a "band-aid" approach. We don't understand why women get in trouble and the institutions are usually out-of-sight, out-of-mind. All states are either looking into women's prisons or will have to because of the second trend of lawsuits. It is very expensive to have attorneys tell you how to run your systems, which is what happens if your state does not take responsibility to do what they need. The experience of North Carolina has been the 4th Circuit Court has told the state that it has a sacred responsibility of guardianship for anyone who is institutionalized. Standards and safety in order to take care of those people

are a minimal constitutional right.

Examples of square footage, mental and medical health care were offered. If the state won't do it, the courts will tell the state how to do it. Montana is in the fix-it stage in preparation for the expansion stage. Longer sentences and more admissions are coming. Response to drug trafficking is another trend which will affect prisons.

Another trend is women convicted of serious crimes dealing with their children. This points to serious mental health issues. Another trend is medical and mental health care which involves major court cases. There is no real policy for pregnant inmates, and corrections is responsible for the health of the unborn child. Health and prenatal health are issues. Pregnant women, women averaging 28 or 29 years, enter the prison with existing medical problems relating to gynecology. Prison exacerbates medical problems of women inmates, e.g. higher incidence of cancer, high blood pressure, seizure disorder. North Carolina has opened a medical facility to deal solely with the medical problems of female inmates. Montana must look at medical care immediately. The institution must respond to medical problems and mental health problems. Deinstitutionalization of mental hospitals has caused an influx of inmates with mental health problems. Mental health treatment means trying to address issues of inmates who come in the system. Mental health treatment for women involves the abuse cycle, which is a reality for women. Treatment must try to help them take control of their lives by understanding what they do and why. Mental health must also deal with dependency issues.

New building and new locations are another national trend in women's corrections. Maintaining family ties is important to the women and children. Classification is another area which needs research to develop a system which is appropriate for women. Women do not present the same security risk as men. And there are not the same security concerns with women in an urban area as with men. Another suggestion involves networking as necessary for those who deal with women offenders. The first national conference on women offenders was held in 1985. By 1987, 44 states and 2 foreign countries were represented because everyone craved information regarding women offenders. The courts are making women offenders an issue, and morally and ethically it is an issue and the numbers are not going away.

Ms. Lancaster's last comment dealt with the conditions in which we ask state employees to work. The conditions we are talking about for inmates are the same conditions in which we ask state employees to work. In order to have good

employees, you must have good conditions in which to work. The present facility is not easy to supervise and is difficult for employees to deal with.

The Council was given an opportunity to ask questions.

What can be done in the interim until a new facility can be built? Staffing will have to be increased if more women are going to be put in the facility. The use of volunteers can help greatly in the area of programs. Montana may need to put in trailers in order to increase room for programming. More beds will be needed in the near future and the program room will eventually be needed for beds. You also can't find more room for women without new staff. As population goes up, so does idleness and idleness among inmates is the greatest predictor of problems. The courts have told North Carolina that meaningful work and programming means 6 hours a day/ 5 days a week.

Do you know of any expertise in the area of design and programs? How would you design a women's facility to meet their needs which are different from the male population? Minnesota just went through the process and could give assistance in this area. In visiting programs you find out more about what you do not like than what you like. Minnesota had two architectural firms, one national expert in prisons, and a Minnesota firm which had no experience in prisons. The expert prison firm was difficult to work with as they wanted to build a maximum security facility which is not necessary for women. Minnesota looked at the programs they wanted and the needs of the women and worked with their local architect. They built single rooms with trundle beds, and each room is self-contained with its own toilet facilities. There aren't many experts and you don't want too many because they tend to be experts in building men's prisons. The people to talk to are the ones who have done it themselves and learned from it.

There was a follow-up question regarding whether or not you need some maximum security beds. There is a need for some maximum security, but not the whole prison.

There has been some discussion in this state of putting the women's facility in Deer Lodge and sharing some facilities and programs. Would it not be cheaper in the long run? The only system that still stands by coed facilities is the federal system. Almost everyone has tried it. In most systems, the men have been brought into vacancies in the women's facility. Because of their dependency, women tend to go where the men tell them rather than do what they would want to do. If there are problems, budgetary or otherwise, women tend to lose. A double standard still exists

regarding sexual activity and the women suffers, and you end up right where you started. Both the men's and women's attention is diverted and they don't do their programming. It is also a security nightmare. Remember that you are looking for a solution for the next twenty years not just five years.

What about use of staff and administration in both facilities? When you try this, if something happens in the men's program, the women's budget gets utilized for men. If you want to have parity for women, they have to have their own budget and administrator. Examples were offered of states which have tried programs such as this, and women inevitably suffer. Another problem is pregnancy, and a whole program can be shot on one incident.

How about sharing psychologists, teachers, etc? It is hard to hire people for only 50 women. There will not be 50 women for long according to projections. Women are a different and difficult population, and professionals work best concentrating on either men or women. If you can share staff, fine, but it should not be your guiding principle. You need to make decisions based on the largest set of glaring facts, such as location in an urban area. If it is possible, yes, once other things have been considered. The women still need their own staff, who gain their expertise with women.

In designing a women's facility in Montana, would it be your recommendation to include a medical infirmary and medical staff? Minnesota is similar in size and has a clinic in the prison with two rooms and beds. They do not have a full-time nurse so women cannot spend the night but it has been good for pregnant and other women. Montana will be planning for the single women's prison for a long time, so it should be included and on an appropriate scale. Examining rooms and physical therapy are also areas to consider. Design it for your needs and build it right into the prison.

How much did the Minnesota facility cost? The capacity is 132 and they currently have 155 inmates. The cost was $15 million for 5 living units, a large core building, an added living unit and a heating plant, there are all levels of security and a total of 9 buildings. Ms. Fleming has been told that they got a lot for their money due to construction being down at the time of building. Building costs were $13 million, the remainder was spent for architects, furniture, etc.

In both of your systems, do female offender administrator have an equal say in policy? In Minnesota, the Shakopee facility is on par with other institutions in the Department

of Corrections and Ms. Fleming's peers are the other wardens. Minnesota does have a Director of Planning for Women Offenders, also. In Minnesota, Ms. Fleming felt that they did there most creative planning when the administration didn't know they existed. The Director of Planning for Women came about from the legislative appropriation process for both jails and in building a women's institution. It may be something to shoot for, but it may be better to have more staff at the facility. North Carolina has a separate command manager for females, Ms. Lancaster. North Carolina had a legislator that asked for something to deal with women's issues. As their system grew, it was necessary to pull in the warden of the women's issues, and eventually management realized that they needed someone to make sure that women are being represented in all administrative areas. Ms. Hoffarth commented that those who work in the female system in Montana have seemed to operate as a stepchild, and policy is dictated by the majority. Mr. MacAskill agreed that economy of scale does take precedent, and overcrowding at 50 is not as serious as overcrowding with 1000 inmates. He is grateful that this Council is addressing the female issues as separate and distinct, but it has not been a problem in the department.

How much does Minnesota utilize community corrections? What are your operating costs? Is there a legislatively mandated cap for women? Minnesota got rid of the parole board with sentencing guidelines and cannot release inmates early. The only way is to utilize work release earlier. There is no population cap. Minnesota utilizes all private work release re-entry facilities. They have used abused women's shelter, and anything in the community they can find to contract to add one or two women. The annual operating cost is $4.3 million for the new facility which jumped from about $1 million in the old facility. Any women's facility is going to be expensive.

What are the number of women sentenced to alternatives? Not sure, but Ms. Fleming estimated a third.

Why is there not more emphasis to put women in the community instead of in a facility? Women are becoming more violent and are committing different crimes than they were twenty years ago. The ones which end up in prison have failed many of the community programs. Community corrections is often targeted to men, because of the large numbers. The attitude seems to be once we have the men taken care of, then we'll deal with the women. We live in a violent society and women will contribute as well.

Please comment on contracting for bedspace for the federal system and other states, and on the private sector operation

of prison facilities. Boarding federal inmates is great because of the money, and federal women are nothing like the men. They are often the best inmates. Ms. Fleming did not know of private sector operation, but when Minnesota looked into financing by private means they found that they could not get as good interest rates as the state could. North Carolina has looked at privatization, but is still entertaining the idea and struggling with who is, bottom-line, accountable. There is a privately built and operated women's facility in New Mexico and Ms. Lancaster suggested contacting the warden for her comments. You may want to look into private sector building with the state running the facility. They can build it faster and build what you want as long as it is specified by contract. Taxpayers will ask you about it and you may want to look into it. Neither consultant would let a private company run the prison. Boarding federal prisoners is a viable possibility and can help offset costs. The federal war on drugs will affect the federal population of women greatly so there will always be an available population.

Sheriff Schafer said that the influx of federal prisoners has contributed more than they had anticipated to the Yellowstone County jail and that it remains a viable possibility. He asked if the Minnesota facility was direct or indirect supervision. Ms. Fleming described that staff monitors a main day room with wings which go off from there. One building has apartments which have kitchens in them and women can have their children and learn to take care of families. Ms. Lancaster said it would behoove the state to build a women's prison that lives up to federal standards, as the federal system will send their women, but only if it has very good facilities and programs.

Sheriff Schafer said that if he had it to do over again, he would have built more of his jail with minimum security areas, instead of all maximum security, as the need does not require all maximum and the cost is less. Ms. Lancaster said that is why it is so important to talk to the architect. Sheriff Schafer also reinforced the idea of the importance of the staff's working environment. Having a staff lounge has been very important and made all the difference.

Are most institutions for women run by women? The answer is yes. With the majority of women having been abused, physically, emotionally and sexually by males, the only way they have learned to relate with men is sexually so the warden has to deal with that all of the time. Ms. Fleming does not think that any man can talk to a woman like a woman can. With a female warden, it is a more relaxed atmosphere, and you get out of the sexual games. It is also important

for the women to have female role models. It is important that they see a person can be straight and fun, or straight and honest. They need more role models from women, not mothering, but they need to see successful women and they need consistency, fairness and interest in women. It is easier on the woman to have a female warden. There are also male institutions run by women, the difference being that the men have not been sexually abused by women all their lives.

Should there be some men in the system for security and to restrain violent inmates? Ms. Lancaster commented that the women in the system should try to handle the situation first and if they cannot handle it, then call on the men to help. A women in corrections should pull her weight. Ms. Lancaster had a male as a deputy warden and said she wouldn't have had it any other way. She currently has about 30% men in the system. She says they there should be men in the system, and it is the position they occupy that is critical. It is where you put them and how you put them, for their protection as well as for the women, that is important. Senator Regan says that it is similar to the education system, that if all principals are male, what does that tell women about succeeding in that system. Women also need to be seen as authority figures.

Is there any way there could be a system of pay-as-you-go by inmates? Ms. Fleming said that is the beauty of industries as the system is paid and so are the inmates. But if you mean putting people in prison involuntarily and making them pay, she didn't think you could ever do that. Ms. Lancaster offered as example a tourist program in North Carolina, similar to the Montana program. In North Carolina, they will put their programs in the prison and pay minimum wage to the inmates. They will then be able to take out restitution, child support and per diem costs out of what people earn. Ms. Fleming said Minnesota had a system that minimum and medium security were paying room and board, but after a lawsuit, that was discontinued. They now have a Victim's Fund and those who make over a certain amount must contribute a certain percentage.

PUBLIC COMMENT

The following people gave public comment. Copies of testimony are on file and are available upon request.

Rep. Stella Jean Hansen representing the Montana Mental Health Association stated that the use of the forensic unit and the other facility was unacceptable to house prisoners. There is also a lack of programs and staffing for women. The state should take responsibility for its women offenders

and their mental health. Correctional facilities should not be built on the campus of the mental hospital, but ideally, where there are educational facilities.

Mignon Waterman representing the Montana Association of Churches stated that their primary concerns are rehabilitation of offenders and alternative sentencing so that we do not simply warehouse prisoners. She urged the Council to replace the facility for women. She also offered the support of her organization, both in assistance to corrections staff and to educate the public. The goal is more than humanitarian, but also an economic imperative. Education is the key for offenders. She informed the Council of Edu-Net which is a distance learning program out of Helena. In spending millions of dollars to construct a new facility, one of the recommendations should be to spend significant money in education and training for incarcerated offenders. Attached to testimony is an article on the amount of money spent on education and training in Idaho and Utah. As far as location of facility, she hopes that the Council bases their recommendation on a number of criteria such as opportunity for education, training, rehabilitation, availability of medical and mental health services, access to quality family counseling and child care for dependent children, and the opportunity for job training and placement upon release.

John Ortwein from the Montana Catholic Conference agreed with Ms. Lancaster's comment of the state's sacred trust to care for those in their jurisdiction. Society expects job skills and changed attitudes toward self and society from those who are released. In order to provide job skills, creative vocational programming should be instituted in order to help develop the women's skills. The space at WCC does not allow that to happen and also does not allow privacy or sufficient medical and social services.

Tom Gomez gave the Council an overview of the Legislative Interim Committee on Adult and Juvenile Detention and the ways the two committees are related. They are collecting data through a survey on jail issues in the state, and information will be shared on number, type and age of jails, and jail populations. The Interim Committee will not look at problems of jails attributable to the state prison and look to the Council for information. The Council and the Interim Committee will be sharing survey information, and are both interested in the relationships of the state prison, the Department of Institutions and local jails, and the Council could look into availability of jail space for state to use any underutilized space.

Scott Crichton of the Montana Chapter of the ACLU has

concerns of humanitarian and constitutional perspectives. He thinks that the voices of the affected persons are not being heard. There is also concern about the "rule book" as it applies to fair and consistent treatment. The majority of complaints they receive are in regards to fundamental health questions and whether there has been "deliberate indifference to serious medical needs." There are also concerns of disparate treatment and programming for women. ACLU does not enter into lawsuits lightly, but is willing to defend the constitutional rights of the least of our citizens.

Diane Sands of the Montana Women's Lobby thanked the consultants and Council for their interest and for all citizens of Montana apologized to WCC for not giving them the needed resources. It is with no pleasure that she observed that the state had made no progress in the past 10 years. The second-class citizenship of women in this state is reflected in all statistics and is highlighted by treatment of women who are the poorest of the poor and victims before they enter the corrections system. The situation at Warm Springs is not adequate and we need a long-term plan to address the situation. The location of the facility needs to be in an urban area with adequate resources in the community for mental and general health care resources, and access to vocational and educational programs, from work training to vocational education centers to literacy programs, to colleges, opportunity for real work experiences in the community and finally, access to supportive family and parenting resources that will help women to reenter society as healthy and productive women, workers and parents. The second major concern is the special needs of the high numbers of Native American women. An urban area would also be better able to serve their needs and take advantage of tribally-controlled colleges. In planning, it is necessary to include Native American leaders in designing programs. Ms. Sands offered the Montana Women's Lobby's resources in trying to educate the public and in lobbying the legislature.

The Council and guests were given more opportunity for questions.

Where is the facility in Minnesota located? It is located in Shakopee which is seventeen miles southwest of Minneapolis and thirty miles from St. Paul. They always have used community resources available in the urban area.

Mary Gallagher from the Mental Health Protection and Advocacy Program reiterated several points. The mental health people in the state are hearing concerns of access to medical and mental health care and are concerned about the

administering of psychotropic drugs. The location of the Women's Correctional Center on the Warm Springs campus does create problems for the mental institution in attracting and keeping quality professionals at the mental health facility. She asked what the considerations are for location of the women's correctional facility. Senator Regan responded that the subcommittee and Council are looking at what the needs are and what the population is like, and what resources are needed in mandating the location. She stated that everyone agrees that Warm Springs is inappropriate. The point of where it is located does involve politics and she hopes that the state does what is right rather than politically expedient.

Evelyn Stevenson, attorney for the Salish-Kootenai Confederated Tribes, commented that many of her concerns have already been raised but she stated that medical care at the facility is a top priority, and agreed with Scott Crichton that the women themselves must be talked to. Mental health problems and keeping families somewhat together are important. This is especially important for the Native American children who experience far greater sociological and mental health problems than other children.

Senator Beck asked whether the women need to learn the coping skills of wives and mothers. Ms. Fleming said she had no problem with that and she agreed that these women need to learn life skills to become independent. However, it cannot be the only training as women's prisons traditionally have done. Ms. Lancaster commented that at the Minnesota facility they have some apartments in which women must do their own budget planning, menu planning and taking care of their children. The first step is to teach them to understand who they are and the abuse cycle before they can take that next step and learn to make choices in their lives.

Louise Burke, Tribal Judge for the Salish-Kootenai Confederated Tribes, brought up concerns of the inmates sitting around for their term and having to wait until just prior to release to be accepted into treatment programs. Their problems have to be treated before they can be educated. Intervention can work if it is done at the outset of the term. Steve MacAskill said that the treatment programs at Galen and Lighthouse are exit programs but that there are programs such as individual and group counseling as well as AA, NA, and ACOA. Dan Russell commented that he is not sure you can fix anyone. Ms. Burke's concern is that nothing is attempted at the beginning of the inmate's incarceration. The courts order treatment and it should be forced on them through intervention.

Sheryl Hoffarth endorsed the idea of teaching traditional feminine skills to women and they get a morale boost from them, but they are not the skills that impress the parole board or a potential landlord, for example. We must give them non-traditional job skills as well.

Senator Regan thanked the consultants on behalf of the subcommittee and the full Council, and expressed her wishes that they come back during the planning stages of the facility. Senator Beck also thanked the consultants for the enlightening presentation.

The Council recessed for lunch at 12:15 p.m. and readjourned at 1:30 p.m.

SUBCOMMITTEE MEETINGS

The Council members broke into their respective subcommittees (see minutes for each subcommittee) at 2:00 p.m.

The full Council readjourned at 3:30 p.m. and a report was given from each subcommittee:

Senator Pat Regan gave a report of the Subcommittee on Women Offenders. The subcommittee will recommend that a new prison facility be built in an urban area for women offenders. The subcommittee has asked the department to recalculate the population projections and members of the subcommittee wish to the women's facilities at Shakopee, Minnesota and Lusk, Wyoming in order to inspect the housing and programs available at the two facilities. If a Special Session is called, Senator Regan will ask for consideration of construction of a women's prison.

The next meeting of the Subcommittee on Women Offenders will be held prior to the next full Council meeting pending the availability of information.

Ted Lympus reported for the Subcommittee on Sentencing and Release. This subcommittee met jointly with the Subcommittee on Prison Overcrowding to listen to a presentation from Dave Armstrong of the alternatives available in the Billings Alternatives program. The subcommittee also adopted a revised study plan. They looked at the correctional policy of Montana and have requested staff to research policies of other states. The subcommittee will also explore the idea of a legislative oversight committee which would look at all of the corrections legislation collectively in order to assess the impact on the system. The subcommittee will have another meeting Thursday, January 11. The subcommittee decided not to have an additional before the full Council meeting March

14, but has requested information for the interim.

Mike Lavin reported from the Subcommittee on Prison Overcrowding. The subcommittee has narrowed the field of potential programs that they have been looking at. Mike Ferriter and Jim Pomroy, from the Department of Institutions, gave presentations on Intensive Supervision and Pre-Release Centers. Fines and fees are being looked at as an alternative and the subcommittee will study them in the future. Dave Armstrong gave a broad-based presentation on the alternatives program in Billings. The subcommittee will begin culling out recommendations for the full Council and are waiting on access to population projections data from the Department. The Subcommittee has agreed to meet before the next Council meeting pending on the availability of requested information.

ADJOURNMENT

The Council adjourned at 4:00 p.m. until March 14, 1990.

MINUTES

Criminal Justice and Corrections Advisory Council
Meeting #5
Wednesday, March 14, 1990
Great Falls Transition Center
Great Falls, Montana

MEMBERS PRESENT:
Senator Tom Beck, Chairman
Margaret L. Borg
Representative Vivian Brooke
Chris Christiaens
Judge Donald DuPuis
Representative Betty Lou Kasten
Mike Lavin
Ted O. Lympus
Senator Pat Regan
Dan Russell

MEMBERS ABSENT:
Henry Burgess
Colleen Conroy
Sheryl Hoffarth
Judge Thomas A. Olson
Walter J. Moore
Sheriff Mike Schafer
Debbie Swanson
Representative Bob Thoft

GUESTS:
Toni Austad, Advocate
Curt Chisholm, Director, Department of Institutions
Mary Fay, Probation and Parole Officer
Father Anthony Gregori, College of Great Falls, Transition Center Board
Tom Grimm, KRTU
Jack Lynch, Board of Pardons staff
Jack McCormick, Montana State Prison
Steve MacAskill, Women's Correctional Center
Representative Red Menahan, Anaconda
Lt. Frank Tuss, Cascade County Sheriff's Office
Herb Waltermire, Chairman, Great Falls Transition Center Board
Richard Wisdom, Transition Center Resident
Erik Zissu, Great Falls Tribune

STAFF:
Rich Petaja
Ted Clack
Susan Byorth

CALL TO ORDER/ ADOPTION OF MINUTES

Chairman Tom Beck called the meeting to order at 9:25 a.m.

The minutes from the January 10 meeting were approved and adopted.

Senator Beck welcomed Representative Vivian Brooke from Missoula, who was appointed by Governor Stephens to replace Representative Helen O'Connell who resigned from the Council.

OLD BUSINESS- WCC UPDATE

Senator Beck asked Steve MacAskill to give a report on the progress that is occurring at the Women's Correctional Center. One of the needs addressed was in the area of medications. They have been moved out of the control room to the nurse's station and they have begun to use blister packs for a unit dosage system. They are working on reviewing policy and procedure including self-medication procedure. They are increasing their nursing time to a full-time position. They began making an inventory of all furnishings and bought a new TV for the day room and a new stove for the kitchen. There are looking at other furniture needs for repair and purchase, and are receiving offers for donations. They requested a peer review regarding psychiatric medication and, with only a few minor questions, the psychiatrist was satisfied with what the WCC psychiatrist was doing. The concern regarding suicide watches was addressed immediately with some changes in procedure in observation, suicide prevention training for staff, and changes made in policy from what was learned. The shortage in staff for counseling and therapy was addressed and WCC may be able to utilize some Master's level intern students in therapy and programming as soon as June. They are looking into job skills training through the AFL-CIO in the next month. There are looking into education, vocational training and industries for the future. They are looking at how to add space. There is an overall review of policies and procedures for incorporation into a new manual.

Dan Russell explained that they took the reports from the consultants and summarized the recommendations and then tried to develop programs and ways to address those issues. Members from the subcommittee and the department will be taking a tour of women's prisons in Lusk, Wyoming and Shakopee, Minnesota, two of the newest facilities in the country. The group will be looking into not only the physical facility, but especially programming that they have developed.

Senator Regan asked whether the doors were installed in the bathroom at the maximum unit. Steve MacAskill said that a request has been put out but the work is not completed. Senator Regan urged that the issue be addressed immediately as it is an issue important to the inmates self-esteem.

DEPARTMENT OF INSTITUTIONS PRESENTATION

Ted Clack presented populations projections for the male and female populations (hand-outs on file). The population projections were generated from the IMPACT program. The assumptions which were used include base population, base admissions, projected rate of annual increase in admissions, base length of stay, and the projected rate of annual increase in length of stay. The information used in developing the projections was chosen on the basis of data on past years and assumptions agreed upon and developed by the corrections division staff.

The population projections were compared with the operating capacities of Montana's correctional resources: Montana State Prison, Swan River Forest Camp, Pre-Release Centers, and Intensive Supervision. The projected population was also allocated according to classification. The proportions of inmates in each custody category was carried forward to derive estimates of future inmates by custody category, and then allocated to correctional program resources. The population projected in excess of capacity will be 88 by fiscal year end 1990 and 456 by fiscal year end 1995.

There was some question and discussion on what drives the increase in populations. Though the crime rate of Montana remains lower than at 1980 levels and the population is decreasing, length of stay and admissions continue to rise. The emphasis on drug enforcement and also crimes driven by gambling may contribute to an increase in population.

The same process was utilized in projecting female populations through 1995. Female population is projected to be 64 by fiscal year end 1990 and 124 by fiscal year end 1995. The design capacity of female correctional programs is 62 and emergency capacity is 82.

Chris Christiaens requested information on where the women are coming from within the state and the crimes for which they are convicted. Mike Lavin noted that the projections indicate that the needs for men will be in high security and needs for women will be in low security. Senator Regan noted that follows what Ms. Fleming indicated about Shakopee and that the prison tour will yield more information on how to deal with that.

Ted Clack also presented a list of options for recommendation which have come from the corrections division and the Department of Institutions. Meetings were held with the corrections staff and prison staff to make a list of ideas to deal with prison overcrowding. At the direction of the director, a "litmus test" was added and the list was reorganized (hand-out on file). The list contains recommendations of ideas which the Council is requested to comment upon. The "litmus test" includes indications on whether or not a new appropriation would be necessary, who would be responsible to pay for the program, whether a statutory change is necessary, who is responsible for the program and who should be, a population effect (if calculated) and whether there is a pool of offenders appropriate for the program.

The recommendations will be referred to the subcommittee on prison overcrowding.

Curt Chisholm, Director of the Department of Institutions, assured the Council that the Department will be working with the Board of Pardons to clarify policy in many of the areas which the recommendations touch upon. There has been long-standing tradition and practice in lieu of policy and the director asked the Council to give him feedback in order to develop a sound corrections policy. The results of discussions between the Department and the Board will be reported to the Council.

PUBLIC COMMENT

The following people gave public comment.

Toni Austad is a critic of the criminal justice system. She spoke of her concerns of sexism, racism, ageism which is pervasive in the criminal justice system. She is the sister of an inmate who has extensive physical and health problems and she is concerned that his physical needs are not being met. She feels that the rights of families are excluded from the process. She feels that there should be a mandate that insures comprehensive plans and policies for the care and treatment of severely ill and injured inmates. She feels that the Council can recommend changes, and that the words "nursing home" and "greater innovation" must be included in the Council's recommendations. Senator Beck asked her what her solution was, and she replied that better communication was necessary with the inmates, the prison and the families. She also was encouraged by the presence of women on Councils such as this and encouraged everyone to listen to them.

Lt. Frank Tuss is the jail administrator of Cascade County. He feels that day fines are addressed by the ability of people to pay their jail sentence at the rate of $25.00 per day. The judges decide whether to place someone in jail or Montana State Prison. Cascade County utilizes the Salvation Army program on a local level. The issues on placing inmates in local jails brings up issues of constitutionality and programming. The jails which have openings are not in the populated areas where the need exists. The Council should be careful not to put the overcrowding problem onto the county jails. Lt. Tuss believes that many judges give suspended sentences because they know that the offender will not make it and end up in prison. He felt that there should be good time given for jail time in addition to credit for time served. Electronic monitoring is not addressed in statute, nor is the use of pre-release centers. These issues should be cleared up in statute. The legislators should address these problem issues where they start, at the local jail level.

Representative Red Menahan (D-Anaconda). Many of the problems at the men's prison are because of the structures that we build and the programs available. The programs must be changed. The time served must be hard time. The problems started with poor management in the past. The inmates should spend more time in programs.

The Council recessed for lunch at 12:30 p.m. and readjourned at 1:45 p.m.

The Council viewed two videotapes, one on the Great Falls Pre-Release Center and a four-part series done by KPAX-TV in Missoula on the Women's Correctional Center.

NEW BUSINESS- NEXT MEETING

The Council scheduled the next meeting for April 17 and 18 in Helena. A two-day meeting will be scheduled to allow the subcommittees to finalize their recommendations and present them to the full Council. This will also enable staff time to prepare cost and population estimates for the Council prior to making their final recommendations, hopefully at a May meeting.

Curt Chisholm spoke on the location issues for a women's prison. Since a final recommendation has not been made by the Council, the location issue is not important right now. Objective criteria will be developed to avoid the circumstance of the Eastern Montana Veteran's Home or a similar situation to the Law Enforcement Academy. He also gave an update on construction at Montana State Prison. The

Supreme Court has taken the case under its jurisdiction and both parties are filing briefs on the subject. Suggestions to phase out Galen, Lighthouse and Montana State Hospital and restructure these programs in other locations has come out in the papers today (3/14). This is a concept that the Department of Institutions would like to explore, but is only in the conceptual stages at present.

SUBCOMMITTEE MEETINGS

The Council members broke into their respective subcommittees (see minutes for each subcommittee) at 2:15 p.m.

The full Council readjourned at 3:30 p.m. and a report was given from each subcommittee:

Mike Lavin reported from the Subcommittee on Prison Overcrowding. The subcommittee held a meeting March 6 and began to work on the population projections. The subcommittee has given specific instructions to staff on proposed legislation to finalize their recommendations in April. The subcommittee unanimously supports the concept from the Department recommendations on the authority of the judge to sentence an offender to a correctional authority. Mike Lavin and Ted Clack will be in contact with other subcommittee members on issues in the interim, including whether there will be an interim meeting. The subcommittee would like to wait on resolution of the parole issues before it considers any recommendations.

Representative Betty Lou Kasten reported for the Subcommittee on Sentencing and Release. As attendance was low, the subcommittee worked mainly on the recommendation of a legislative oversight committee. The agenda will be continued at the next meeting.

Senator Pat Regan gave a report of the Subcommittee on Women Offenders. Attendance was also low for this subcommittee. They held a spirited discussion with Rep. Red Menahan. They discussed lease-purchase financing and cautioned the Council not to automatically assume a cost savings. Rich Petaja gave the results of his survey of other states regarding their current women's institutions situation. The results of the survey will be completed by the next meeting.

Some discussion was held on interim measures for WCC. After the tours of Shakopee and Lusk, the subcommittee may be able to shed more light on expanding options proposed for training and programming. Sen. Regan was pleased with the Department's response and their immediate action to improve living conditions and training at the present time. Some

more basement space will be used for training. Inquiries will be made to the president of Buttrey Foods as to WCC qualifying for their computer program for students and schools. Chris Christiaens also suggested follow-up contact with the IBM people in Helena and with Bob Ruthermeyer of OPI for the PALS program.

ADJOURNMENT

The Council adjourned at 4:00 p.m.

MINUTES

Subcommittee on the Study of Women Offenders
March 14, 1990

MEMBERS

Senator Pat Regan, Chair
Senator Tom Beck
Margaret Borg
Colleen Conroy -- absent
Sheryl Hoffarth -- absent

Dan Russell
Rich Petaja, staff

Guests
Steve MacAskill, WCC
Representative "Red" Menahan

The population projection of expected women inmates was considered by the subcommittee. Total female inmate population projections through 1995 were accepted. These will be used when determining future female inmate housing needs. The projected numbers by security level were questioned by Mr. MacAskill. He and Mr. Clack will reconsider the figures and present their findings to the subcommittee.

Senator Regan indicated the subcommittee should not preclude any financial options when seeking funding for a new women's prison. All options including cash, Government Obligation Bonds, lease-purchase and others should be carefully examined in terms of feasibility to ensure the most favorable financing method is selected.

Following discussion of the type of information the subcommittee was expected to provide for Legislative consideration, the decision was made that specific recommendations instead of a general statement would be more useful. These recommendations will be determined before June.

Rich Petaja presented preliminary results of a questionnaire regarding anticipated women prison bed shortages, surpluses, and willingness to contract with Montana for bed space. This form was mailed to 21 states and the Federal system. Staff was instructed to contact two non-responding states and the Federal system. The survey indicates most Western states are building and, despite new construction, do not expect surplus beds and do not wish to contract.

The possibility of a regional jail option was discussed but no support was expressed by anyone on the subcommittee. Montana's unfavorable experience associated with out-of-state housing of women inmates prior to opening WCC shows serious problems can occur when a facility outside of the state is used for housing. This issue could be reconsidered if the regional jail was constructed within Montana.

When considering construction of a new prison, Representative Menahan reminded the subcommittee that areas or rooms can be easily modified to provide housing for security levels lower than originally intended, however changing to a higher level may be impossible. He suggests construction should tend toward overbuilding in terms of higher security levels.

During discussion of resource needs for a new facility (how many beds, buffer requirements, land requirements) the group was reminded that program requirements remain the real issue for consideration. Other physical requirements will be definable after necessary programs are decided.

Steve MacAskill and Dan Russell discussed interim measures currently being taken to improve WCC. These included solicitation of inmate suggestions; major revision of medication procedures including increasing nursing availability from half-time to full-time; including staff supervision capability, and continuing to fill all staff positions. Peer review of psychotropic medication procedures was initiated. Other efforts included repair and upgrade of furniture; permanently opening the doorway to disciplinary cells; staff training in suicide prevention; and work orders submitted for general repairs. Interns from Montana State University mental health training programs will also be provided soon.

In response to Senator Regan's suggestion that WCC look at non-traditional jobs with potential for the woman earning an income adequate to support a family, Mr. MacAskill stated that the AFL-CIO will be working with WCC to implement a program called Project Challenge. This training program begins in the facility and continues after release with job training, apprenticeship programs, and possible job placement, etc.

Mr. Russell indicated that basement space in WCC, formerly used for Civil Defense hospital storage, is being modified to provide temporary space for additional programming. WCC is talking to the Easter Seal Society in Great Falls about subcontracting for telemarketing jobs.

MINUTES

Subcommittee on Sentencing and Release Practices
March 14, 1990

MEMBERS

Ted Lympus, chair
Judge Don DuPuis
Representative Betty Lou Kasten
Judge Thomas Olson -- absent
Debbie Swanson -- absent

Susan Byorth, staff

Curt Chisholm spoke briefly with the members of the subcommittee on different issues regarding the department and parole. The subcommittee will wait to hear results of the discussions between the Board of Pardons and the Department before pursuing any recommendations regarding parole.

Susan Byorth handed out some information on legislative oversight committees. One is a list of committees from different states, and an article on Tennessee's legislation. The proposal for a committee was written with all elements. Representative Kasten is going to speak with some other legislators and the subcommittee will review the information at the next meeting.

The agenda will be continued until the next meeting.

MINUTES

Subcommittee on Prison Overcrowding
March 14, 1990

MEMBERS

Mike Lavin, Chair
Chris Christiaens, Vice-chair
Sheriff Mike Schafer -- absent
Walter Moore -- absent
Rep. Vivian Brooke
Rep. Bob Thoft -- absent

Guests

Curt Chisholm, Director, Department of Institutions
Jack McCormick, Warden MSP

Ted Clack, staff

The subcommittee addressed the Departmental recommendations and identified items that need some research. Rep. Vivian Brooke suggested an omnibus corrections bill approach since so many of the suggestions are related. Mike Lavin suggested that some of the options need to be eliminated. Chris Christiaens would like to keep all options available. The subcommittee agreed that any innovations must be implemented as probable diversions from prison.

The subcommittee addressed the specific Prison Overcrowding Recommendations (handout on file). In looking at options that are diversions from prison (Item I), the subcommittee agreed to include day fines as a long-term option which will require more research. The subcommittee would like to pursue house arrest and community service as recommendations and inquired whether a statutory change was necessary.

Option II.A.2. The subcommittee sees this recommendation to change the statutory authority which sentences all offenders to a correctional authority as part of an omnibus bill and realizes it will be the most controversial option. Curt Chisholm asked for an early draft to be reviewed by the subcommittee prior to making a recommendation to the full Council. Ted Clack is to initiate a chain of requests to draft a bill.

Option II.A.3. The subcommittee supports the idea of graduated sanctions for parole violators, but would like more information on how it would work. The policy side is no problem as it can be done in-house, but an appropriation will be needed. The subcommittee does not wish to include

probation, but to include parole because statutory authority exists. Mr. McCormick said that there is no restriction on what can be done with probation violators, adding that the restriction is in the lack of resources.

Option II.A.4. The subcommittee encourages the department to pursue sentencing recommendations (not guidelines) for probation and parole officers' sentencing recommendations in PSIs.

Option II.B.1. Mr. McCormick explained the numbers of special needs inmates and the consequent inappropriate use of high side beds. The subcommittee agreed with this option for a high security "treatment" unit for these special needs offenders. The department has not as yet planned for need for high side space. Mr. Lavin said that the Council needs to, at the least, put construction on the table and discuss it. The subcommittee agreed special needs inmates do need separate secure housing.

Option II.B.2. The subcommittee believes this should be considered a separate option from II.B.2 for low side inmates.

Option II.B.3. The department is looking for approval from the Council on this option to provide institutional case managers. The subcommittee supports this proposal and would like staff to develop an estimate of the FTEs needed.

Mike Lavin asked the subcommittee for permission to discuss pages 2 and 3 of the recommendations with Ted Clack and then to call subcommittee members regarding these options.

Mr. Clack was asked to prepare draft statutory cap legislation. Mr. Christiaens suggested a draft change in statutory definitions of jail to allow inmate placement in such facilities.

MINUTES

Criminal Justice and Corrections Advisory Council
Meeting #6
Tuesday, April 17, 1990
Department of Institutions
Wednesday, April 18, 1990
Capitol Building
Helena, Montana

MEMBERS PRESENT:

Senator Tom Beck, Chairman
Margaret L. Borg
Representative Vivian Brooke
Henry Burgess
Chris Christiaens
Colleen Conroy
Judge Donald DuPuis
Sheryl Hoffarth
Representative Betty Lou Kasten
Mike Lavin
Ted O. Lympus
Judge Thomas A. Olson
Senator Pat Regan
Dan Russell
Sheriff Mike Schafer
Debbie Swanson

MEMBERS ABSENT:

Walter J. Moore
Representative Bob Thoft

GUESTS:

Jean Bowman, Helena Committee to Secure WCC
Scott Crichton, ACLU
Connie Ternes Daniels, Anaconda/Deer Lodge Commissioner
Jim Davis, Anaconda Local Development Council
Lee Jewell, Powell County Progress
Tom Keegan, Board of Pardons
Jack Lynch, Board of Pardons staff
Jack McCormick, Montana State Prison
Kevin McRae, Lee Newspapers
Steve MacAskill, Women's Correctional Center
Harriett Meloy, Helena Committee
Representative Red Menahan, Anaconda
John L. Ortwein, Montana Catholic Conference
Carol Simone, KTVM
Craig Thomas, Board of Pardons staff
Gene Vuckovich, Anaconda/Deer Lodge Commissioner
Keith Wolcott, Deputy Director, Department of Institutions

STAFF: Rich Petaja
Ted Clack
Susan Byorth

CALL TO ORDER/ ADOPTION OF MINUTES

Chris Christiaens called the meeting to order at 1:05 p.m.

The minutes from the March meeting were approved and adopted.

LUSK AND SHAKOPEE PRESENTATION

The Council viewed a videotape taken on the prison tours to Lusk, Wyoming and Shakopee, Minnesota. Susan Byorth explained the facilities as the Council viewed the video. There was discussion and the prison tour group answered questions regarding the facilities. A report on "Comparison of Female Correctional Facilities" was used as a basis for discussion (on file). Steve MacAskill presented a program comparison of Lusk, Shakopee and Montana's Women's Correctional Center (on file).

Comment was made on the atmosphere of each facility. In Lusk, there were not many inmates visible, but at Shakopee, there were inmates involved in every program and the women seemed to take pride in the facility. Lusk was in a very remote area and was fenced in, whereas Shakopee was in a residential area and there was no perimeter fencing which reflects a degree of trust.

Shakopee has successfully contracted with the private sector and has recently hired a marketing director to coordinate programming with private sector contracts. Lusk did not have any industries programs.

Shakopee is currently experiencing overcrowding and will be building two new units. The support facilities were built with expansion capabilities.

SUBCOMMITTEE MEETINGS

The Council members broke into their respective subcommittees (see minutes for each subcommittee) at 2:30 p.m. and recessed as they finished.

The full Council reconvened at 8:30 a.m. on Wednesday, April 18.

Senator Beck called the meeting to order. The Council scheduled the final meeting for June 7 and 8 in Helena. A

two-day meeting will be scheduled to allow the Council to finalize their recommendations. The staff will prepare cost and population estimates for the Council for the subcommittees to review before the Council makes their final recommendations.

Mr. Christiaens reported for the Subcommittee on Prison Overcrowding that they are at an impasse until the Board of Pardons and the Department work out some policy agreements among themselves. Mr. Christiaens reported that the subcommittee instructed the two agencies to meet and come back with recommendations no later than one week prior to the next meeting. Mr. Lavin reported that his subcommittee meeting had become a forum for debate between Department and Board personnel over authority, responsibilities and duties and until a meeting transpires between the two agencies, the subcommittee is in a bound position. Senator Regan agreed that it is better for the agencies to compromise and work out the delineation of responsibilities, but if the debate continues, the committee should look at legislative action to clearly define the roles of each agency. She asked if the subcommittee could discuss this approach to send a message to both agencies to work it out or the Council will. Mr. Schafer indicated that message was made clear in Tuesday's meeting. Senator Beck informed the Department and the Board that a line of communication must be opened in order for the Council to be able to do constructive work. He asked the agencies to meet and work out their problems in order that the Council could function effectively. Mr. Lavin reported that the subcommittee had taken initial action on many recommendations, but as no agreement exists between the Department and the Board, they cannot continue on those recommendations. Senator Beck reiterated that if it takes legislative action to solve the problem, the Council will pursue it.

The Council divided into its subcommittees (see subcommittee minutes). The full Council reconvened at 11:00 a.m. and a report was given from each subcommittee.

Ted Lympus reported for the Subcommittee on Sentencing and Release on its preliminary recommendations:

1. Revise the correctional policy to reflect concern for youthful offenders and opportunity for treatment for all sex offenders.
2. Create a legislative oversight committee to review legislation effecting corrections.
3. Simplify the dangerous offender designation by stating simply that a judge may declare an offender to be dangerous, and must give written reasons why.
4. Change good-time to apply to discharge date only in order that judges may be more certain of the length of

time at which an offender will become eligible for parole.
5. Recommend creation of a task force to take a comprehensive look at sentencing and release issues: guidelines, parole, mandatory minimums and maximums, good-time, sentence review, parole eligibility, and the assignment of judges and distribution of caseloads. This task force should include representation from all three branches of government, all aspects of the criminal justice system and the public.
6. Increase probation and parole resources for the Board of Pardons and the Field Services Bureau. The Board of Pardons requests a minimum of an additional hearings officer and a pre-parole programmer, and additional staff depending on other recommendations and the location of the new women's facility. The subcommittee recommends a minimum of four field officers based on the past years workload, but wants to assure that the department has sufficient staff to provide supervision for other recommendations like ISP, and increased supervision needs.
7. That judicial salaries be upgraded to regional standards.

Mr. Christiaens asked if the subcommittee took into consideration the increase in length of stay which would be the result of the change in good-time proposed. Mr. Lympus and Judge Olson replied that by increasing the predictability of when a prisoner would become parole eligibility that the length of sentences may go down. Senator Beck asked if the subcommittee could look into the problem of inmates escaping from prison having to appear before the court and if there could be a mechanism to automatically lengthen the sentence or remove good-time. Mr. Lympus replied that Powell County, because of its location, would have a higher number of those cases, but the inmate would have to be given due process and not have an automatic lengthening of sentence. The removal of good-time would be within the administrative power of the institution.

Mike Lavin reported from the Subcommittee on Prison Overcrowding. He reaffirmed interest and support of:

1. Local jurisdiction creation of house arrest and community service programs for felony offenders. The subcommittee recommended further study for day fines.
2. The department to consider potential for establishing a high security treatment unit to house inmates with special needs. The potential cost may be close to that of a 96-bed unit.
3. Endorse expansion of capacities for pre-release centers, including capabilities of intensive chemical dependency treatment with possible goal of eliminating

Galen/Lighthouse as a need.
4. Release selective offenders to electronic monitoring/ house arrest for last two months of pre-release.
5. Develop graduated sanctions for parole violators.
6. Institute flat-rate good-time for parolees only.
7. Change statute to sentence offenders to a correctional authority.

Senator Pat Regan gave a report of the Subcommittee on Women Offenders. She noted that the current population is exceeding the population projection for 1990. A two-pronged approach is necessary.

The Subcommittee on Women Offenders recommends funding be provided to allow the Department of Institutions to address the immediate housing needs associated with increasing female inmate population through 1993. These needs may be met by providing a list of options including, but not exclusive to:

1. ISP-expand to include 5 more slots for women in a third city.
2. Pursue off-site options in the form of contracted placement:
   a) for special needs inmates (e.g. geriatric, mental health, sheltered workshop.);
   b) for inmates from areas not now served by a pre-release center; and,
   c) in lieu of Galen/Lighthouse for drug and alcohol treatment.
3. Provide an institutional case manager to assist inmates in preparation for parole.
4. Pursue a specified amount of money to provide temporary housing units for offenders whose needs cannot be met in pre-release, community or contract placements and who require secure housing.
5. Expand the facility for secure placement of women offenders. The projected population illustrates a need for more bed-space. The space needs also are driven by programmatic needs.
6. Expand pre-release center capacities:
   a) expand the Billings Life Skills Center by two beds; and/or,
   b) allow the use of five slots for house arrest for the last two months of the pre-release program; and/or
   c) develop an additional pre-release center in a second city of 12-15 beds, with the capability to utilize electronic monitoring for 5 selected offenders for the last two months of the pre-release program.

The subcommittee members spent time making lists of their expectations and when compared were almost unanimous. The subcommittee made the following tentative recommendations for a new women's facility:

1. That a new facility built to accreditation standards, taking into account, for example, handicap and geriatric requirements.
2. That the facility be separate from the male facility and share no services or personnel.
3. That the facility be built on the Shakopee model with :
   a) a central administration and support building, to be built to allow for expansion at a later date; and,
   b) separate modular housing facilities to allow easy expansion.
4. That the outside perimeter be minimally fenced, with a fenced exercise yard, a high security area, and with the ability to expand.
5. That there be an independent living program or housing facility within the unit.
6. That criteria for siting the facility include the following considerations:
   a) availability to transportation for visiting purposes;
   b) access to a pool of volunteers;
   c) access to interns for education and programs;
   d) adequate medical and psychological support which take into account the special needs of women;
   e) availability to work release and OJT jobs;
   f) ability to place children in foster care; and,
   g) access to education facilities such as vo-tech, and other higher education.
7. That the physical facility include:
   a) a gymnasium;
   b) outdoor recreation facilities;
   c) a chapel supported by religious contributions;
   d) a library;
   e) a full-service stand alone support unit for:
      i) food service
      ii) laundry
      iii) maintenance
      iv) adequate staff space;
   f) adequate infirmary, medical and mental health space, taking into consideration the special needs of women;
   g) adequate vocational/industry space;
   h) adequate educational space;
   i) adequate self-help/support group space; and,

j) a parenting program which allows for extended on-site visitation.

Each component needs adequate space in order not to compete with other programs.

Senator Regan added that the Department indicated that it would try to come up with some projections and cost estimates.

Rep. Brooke was concerned with the short-term recommendations and the lack of addressing immediate program needs. Senator Regan asked that the department come up with a time-line to address these issues. She stated that the women's prison has been in crisis for years and that it is not the fault of the department or institution's personnel but the legislature's for not supplying resources. Mr. Christiaens asked where the money would come to address immediate needs. Senator Beck said that the subcommittee recommendations were for the next biennium, and Senator Regan said that the department was working on immediate interim needs. Senator Regan said that the program changes are being started now. Mr. Russell said that there are steps being taken in educational and vocational programs, medical area and equipment needs. There is some current level funding for a good start in those areas. And there are other areas that will be worked on like interns, grants, etc. outside of general funds.

Mr. Beck asked staff to send each member the recommendations and background to study before the next meeting. Mr. Russell indicated that the long-range building committee will meet prior to the next meeting and there may be useful information from that meeting. The Council will make its final recommendations at the June 7 and 8 meeting.

ADJOURNMENT

The Council adjourned at 12:00 p.m.

MINUTES

Subcommittee on the Study of Women Offenders
April 17 and 18, 1990

MEMBERS

Senator Pat Regan, Chair
Senator Tom Beck
Margaret Borg
Colleen Conroy
Sheryl Hoffarth

Dan Russell
Rich Petaja, staff

Guests
Steve MacAskill, WCC

The subcommittee discussed population projections, facility and program issues and decided parameters for their recommendations. Staff presented information and distributed reports on Responses to WCC Educational Status Survey, Regional Female Inmate Housing Requirements, County of Origin of Admissions to WCC, and the Department's prison overcrowding options specific to women (reports on file).

The subcommittee's tentative recommendations took a two-pronged approach.

The Subcommittee on Women Offenders recommends funding be provided to allow the Department of Institutions to address the immediate housing needs associated with increasing female inmate population through 1993. These needs may be met by providing a list of options including, but not exclusive to:

1. ISP-expand to include 5 more slots for women in a third city.
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   c) in lieu of Galen/Lighthouse for drug and alcohol treatment.
3. Provide an institutional case manager to assist inmates in preparation for parole.
4. Pursue a specified amount of money to provide temporary housing units for offenders whose needs cannot be met in pre-release, community or contract placements and who require secure

housing.

5. Expand the facility for secure placement of women offenders. The projected population illustrates a need for more bed-space. The space needs also are driven by programmatic needs.
6. Expand pre-release center capacities:
   a) expand the Billings Life Skills Center by two beds; and/or;
   b) allow the use of five slots for house arrest for the last two months of the pre-release program; and/or
   c) develop an additional pre-release center in a second city of 12-15 beds, with the capability to utilize electronic monitoring for 5 selected offenders for the last two months of the pre-release program.

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2. That the facility be separate from the male facility and share no services or personnel.
3. That the facility be built on the Shakopee model with :
   a) a central administration and support building, to be built to allow for expansion at a later date; and,
   b) separate modular housing facilities to allow easy expansion.
4. That the outside perimeter be minimally fenced, with a fenced exercise yard, a high security area, and with the ability to expand.
5. That there be an independent living program or housing facility within the unit.
6. That criteria for siting the facility include the following considerations:
   a) availability to transportation for visiting purposes;
   b) access to a pool of volunteers;
   c) access to interns for education and programs;
   d) adequate medical and psychological support which take into account the special needs of women;
   e) availability to work release and OJT jobs;
   f) ability to place children in foster care; and,
   g) access to education facilities such as vo-tech, and other higher education.

7. That the physical facility include:
   a) a gymnasium;
   b) outdoor recreation facilities;
   c) a chapel supported by religious contributions;
   d) a library;
   e) a full-service stand alone support unit for:
      i) food service
      ii) laundry
      iii) maintenance
      iv) adequate staff space;
   f) adequate infirmary, medical and mental health space, taking into consideration the special needs of women;
   g) adequate vocational/industry space;
   h) adequate educational space;
   i) adequate self-help/support group space; and,
   j) a parenting program which allows for extended on-site visitation.

Each component needs adequate space in order not to compete with other programs.

MINUTES

Subcommittee on Sentencing and Release Practices
April 17 and 18, 1990

MEMBERS

Ted Lympus, chair
Judge Don DuPuis
Representative Betty Lou Kasten
Judge Thomas Olson
Debbie Swanson

Susan Byorth, staff

The subcommittee discussed the correctional policy of the state and the overall effect of sentencing. Judge Olson said that the judges are perplexed, but as he gains more experience he is less concerned with how long an offender stays in prison and he is willing to give the parole board more authority in that decision. Judges do not believe that mandatory minimums set by the legislature are effective as the judge at the time of sentencing cannot say how a convicted offender will react to his prison sentence. Mr. Lympus felt that prosecutors agreed that mandatory minimums were not necessary because they fail to allow the court to take into account the circumstances of a crime. Judges and prosecutors can always find a way around them. Mr. Lympus felt that some prosecutors would like more determinate sentences and less parole. One way to make sentences more determinate would be to eliminate good-time.

The subcommittee realized that it was not prepared to make specific recommendations on how to change sentencing but does support the concept that sentencing and release needs to be studied and changed. Judge Olson said he would like to see the Sentence Review Board have a more active role and more power. Judges do not have the resources to review sentencing on their own. Funding and staffing will have to be provided. The subcommittee realized that the group which studied these issues would have to include representatives from all aspects of the system in order that any changes made were system wide.

Mr. Lynch, staff of the Board of Pardons, suggested that if parole eligibility was not conditioned by good-time, then judges would know when parole eligibility was reached by the length of sentence imposed. Good-time could be applied to discharge for institutional purposes. Representative Kasten felt that this was not something that the subcommittee could recommend but that this could be addressed within the group that would look at sentencing issues. Judge Olson had no

problem with changing statutes, but did not endorse major changes in the system. A major change such as this would affect the prison population greatly and cost a lot of money. Mr. Lympus felt that if the judges knew how long the convicted offender would be in prison, they might not inflate sentences to affect the time served. Mr. Lynch said that judges call the Board asking how long to sentence an offender to ensure that he would spend a certain time in prison. Judge Olson felt that an education program should be instituted to explain how parole works to the judges. Judges often want an offender to "cool his heels" in the prison for about 12 months, but due to institutional behavior, the inmate does not get a parole and is in the prison for an extended amount of time. Judges would like a way to be sure that the sentenced offenders do not get lost in the process.

The subcommittee discussed judicial, probation and parole resources. A hand-out on judicial resources was distributed last meeting, and staff distributed a hand-out on probation and parole workload at this meeting (on file).

The subcommittee discussed the concept of a legislative oversight committee. Rep. Kasten had done some research and presented some options. The first was to create a human services committee which would oversee corrections as well as other areas. Also, the Republican Caucus requested a liaison with each department and if the Democratic Caucus could do the same then there would be a venue to review these activities without cost. She also planned to speak with Bob Marks and would report back to the subcommittee on Wednesday. The subcommittee felt that a volunteer liaison or caucus would not necessarily have the continuity that would be needed. There was also the possibility of a resolution to have corrections be an area of study of the Legislative Council for their interim studies. The subcommittee made amendments to the draft regarding a legislative oversight committee for recommendation. Representative Kasten cautioned that the funding may not be available for a committee.

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Subcommittee continued discussion of correctional policy. Judge Olson stated that the policy as it stands has everything in it and it is not very helpful. Judges use the correctional policy at times to explain the reasons for sentencing. Judge Olson said that if he were to make any change, there would be a reference to the young offender who does not seem to be able to function on probation or parole. The changes made in the sentencing of a convicted offender to a correctional authority may help with this problem.

There are statements regarding parole which give a preference for young offenders and could be used as precedents. Judge Olson feels that there is a real void in ways to deal with these offenders. The subcommittee felt that some mention should be made in the correctional policy regarding these offenders that directs special consideration in classification and placement. The recommendation on correctional authority also will affect this. The correctional policy should reflect concern for proper placement of youthful offenders for education and treatment. Mention also should be made regarding sex offenders, who, regardless of gender, must be given the opportunity for treatment. Also mention should be made that programming should be accomplished through adequately funded programs and resources.

The subcommittee suggested that the draft for the Legislative Oversight Committee be recommended as amended and a clause added that if, in the Governor's process of reviewing committees, an oversight committee is not accepted then a resolution to address this problem be included in the Legislative Council research funding, or that a grant be obtained for this purpose.

The subcommittee recommended that the nondangerous designation language be cleaned up to simply allow a judge to designate an offender as dangerous and give written reasons as to why he did so. The default of nondangerous offender designation is retained if the judge does not designate an offender as dangerous.

The subcommittee chose to accept a Board of Pardons staff proposal that good-time be designated to apply to discharge date and have the parole eligibility date determined by the statute which states that a nondangerous offender becomes parole eligible after one-quarter of his term and a dangerous offender becomes eligible after serving one-half of his term. The subcommittee believes that there is a perception that judges may inflate sentences to compensate for good-time, and that if a judge were more certain of the time served to parole eligibility, the sentences may come down. Prior to the enactment of this legislation, a memo or training for judges, prosecutors and defense council should occur to inform the judges of the effect of this change. If judges did not respond to this change the length of stay would increase dramatically, and the change would only effect those sentenced after the passage of legislation.

The subcommittee will forward a recommendation that a Task Force be formed to look at sentencing and release practices to include, but not limited to: sentencing guidelines, parole, mandatory minimums and maximums, use of good-time,

the sentence review board, the correctional policy, parole eligibility, and the judiciary in terms of salary, distribution and assignment of judges by caseload.

The subcommittee will forward a recommendation regarding probation and parole resources. Mr. Lynch informed the subcommittee that the Board of Pardons staff has not grown with the prison population. They need one pre-parole programmer and one hearings officer at the least. Additional staff may be needed depending on the location of a new women's facility. The field services staff, according to workload assessments over the past year would require a minimum of four probation and parole officers and may need additional numbers to adequately provide supervision for other recommendations such as expansion of ISP.

The subcommittee also wished to recommend that judicial salaries be upgraded to regional standards. Montana is currently ranked 50th in the nation for the level of salary for district court judges.

MINUTES

Subcommittee on Prison Overcrowding
April 17 and 18, 1990

MEMBERS

Mike Lavin, Chair
Chris Christiaens, Vice-chair
Sheriff Mike Schafer
Walter Moore -- absent
Rep. Vivian Brooke
Rep. Bob Thoft -- absent

Guests
Henry Burgess, Chair, Board of Pardons
Jack McCormick, Warden MSP
Craig Thomas, Board of Pardons staff
Keith Wolcott, Deputy Director, Department of Institutions
Ted Clack, staff

April 17. 1990

Chairman Lavin asked Mr. Wolcott to provide an overview of current relations between the Board of Pardons and the Department. Mr. Wolcott stated that the Governor had directed both agencies to develop written policies and procedures to guide the flow of offenders within the corrections system and the interaction between the two agencies. A meeting between the agencies will be held in the near future. Committee members were unanimous in their conclusion that their recommendations are hindered by lack of agreement between those agencies.

Chairman Lavin asked Mr. Burgess to comment on the Department's recommendations. Mr. Burgess stated that most of the Department's recommendations were ill-conceived, unsound and an infringement of Board of Pardon's authority and responsibility. No compromise was reached in ensuing discussions.

Mr. Lavin asked Mr. Burgess to comment on two statutory proposals offered by the Department. One, concerning commitment of convicted offenders to the Department, to be designated as the state correctional authority, received committee approval. The other, concerning emergency prison release mechanisms, met with objections from Mr. Burgess, who held that the proposal would "destroy the concept of discretionary parole." Action on the proposal was tabled.

The committee discussed the forest camp proposal presented by Mr. Tom Finch two months ago. Staff was directed to draft a letter thanking Mr. Finch for his efforts, encouraging him to continue his research, but making no promises of committee or Council endorsement. The committee expressed some concern over staffing levels that

Mr. Finch's proposal might require.

This session of the meeting was concluded with a committee statement that agreement between the Department and the Board of Pardons must be reached as soon as possible. If such agreement is not forthcoming, the committee will recommend that the Council advise the Governor of solutions to the impasse between the agencies.

The committee recessed at 4:30 p.m.

April 18, 1990

Mr. Thomas Keegan replaced Mr. Burgess as representative of the Board of Pardons.

The committee continued to discuss the impasse between the Board of Pardons and the Department and asked Mr. Keegan for further clarification.

The committee then reviewed Department recommendations to identify and act upon those that were not in dispute. Agreement was reached that the committee would report their endorsement of the following recommendations to the Council:

1. Local jurisdictions be encouraged to develop house arrest and community service programs as sentencing alternatives for some felons. The State be encouraged to provide program development "seed monies" as grants to communities.
2. That the State should be advised to research the use of day fines as an alternative sanction for felony offenders at some future date.
3. A high security 96-bed "treatment" unit for special needs inmates should be acquired to address the housing and program requirements of existing and projected high security inmates. This unit would serve geriatric, chemically dependent, protective custody and emotionally disturbed inmates as well as some sex offenders.
4. Good-time should be granted to parolees at a flat rate to encourage pursuit of parole and shorten length of stay on parole.
5. Expand pre-release center capacities by a total of 50-55 beds.
6. Expand pre-release capabilities to include intensive chemical dependency counseling and eliminate the need for Galen/Lighthouse enrollment as a pre-parole treatment requirement.
7. Release selected pre-release inmates to electronic monitoring/house arrest for the last two months of confinement.
8. Develop graduated sanctions for parole violators to be acquired and contracted from participating local jurisdictions as alternatives to reincarceration.
9. Enact a bill designating the Department as the "state correctional authority" and committing convicted

offenders to that authority rather than to designated institutions. The proposed bill should clarify the reception process for various types of offenders.

The committee meeting was adjourned at 11:30 a.m.

MINUTES

Criminal Justice and Corrections Advisory Council
Meeting #7
Thursday, June 7, 1990
Friday, June 8, 1990
Capitol Building
Helena, Montana

MEMBERS PRESENT:
Senator Tom Beck, Chairman
Margaret L. Borg
Representative Vivian Brooke
Henry Burgess
Chris Christiaens
Colleen Conroy
Sheryl Hoffarth
Representative Betty Lou Kasten
Mike Lavin
Ted O. Lympus
Senator Pat Regan
Dan Russell
Sheriff Mike Schafer
Debbie Swanson
Representative Bob Thoft

MEMBERS ABSENT:
Judge Donald DuPuis
Judge Thomas A. Olson

GUESTS:
Jean Bowman, Helena Committee to Secure WCC
Scott Crichton, ACLU
Tom Keegan, Board of Pardons
Mary LaFond, Governor's Budget Office
Rep. Tom Lee, Big Fork
Jack Lynch, Board of Pardons staff
Jack McCormick, Montana State Prison
Kevin McRae, Lee Newspapers
Steve MacAskill, Women's Correctional Center
John L. Ortwein, Montana Catholic Conference
Steve Shirley,, Great Falls Tribune
Carol Simone, KTVM
Craig Thomas, Board of Pardons staff
Sandy Whitney, Legislative Fiscal Analsyt

STAFF:
Rich Petaja
Ted Clack
Susan Byorth

SUBCOMMITTEE MEETINGS

The Council members met in their respective subcommittees at 1:00 p.m. on Thursday, June 7 (see minutes).

CALL TO ORDER

Senator Beck called the meeting to order at 8:20 a.m. on Friday, June 8.

PUBLIC COMMENT

Senator Beck asked if there was any interested person who would like to comment on the proposals before the Council discussed them.

Scott Crichton offered input from the ACLU of Montana. They support the recommendation of the new women's facility with some qualifications. They agree with the Shakopee model and the changes to bring parity in women's programming. There are two concerns however. The first deals with the size of the facility. The recommendation is for 100-120 beds which they believe is too large and will be filled regardless of crime rate. They suggest that we look at not how many there are, but how many we need to incarcerate. Two factors are responsible and need to be addressed: changing sentencing practices and mandatory minimums, and the war on drugs. If the object is to reduce crime we should not do this by sending them to prison.

The ACLU is concerned that the classification process has not received enough attention, and with due respect to the Department of Institutions staff, the Department of Institutions should turn to NIC for technical support to look at the prison classification system of female inmates and alternatives to prison. He suggested that the Department also contact the National Center on Institutions and Alternatives, recognized by NIC, to review classification to assess what portion of inmates may be served in a community settin, and also to interview key criminal justice figures to identify other practices which can help keep the prison population down.

The ACLU strongly recommends that this Council reconsider the capacity of the new women's facility and NCIA be contacted to do a third party population analysis which might suggest a smaller overall population and offer clarity on better and cost-effective alternatives to incarceration.

PROPOSAL PRESENTATIONS

Members presented the following proposals that were developed by the subcommittees.

Corrections Oversight Committee Rep. Betty Lou Kasten presented a proposal which would create a legislative oversight committee to review legislation which affects corrections. The proposal was amended to one which the legislature would establish a joint subcommittee with the chairs of the House and Senate Judiciary committees to review legislation during the session which affects the corrections system. The costs attached to the proposal were for an interim committee and are not to be included in the recommendation.

Rep. Bob Thoft MOVED that the proposal for a committee which meets during the legislature be adopted. Margaret Borg SECONDED the motion. The motion PASSED unanimously.

Task Force on Sentencing and Release Rep. Betty Lou Kasten presented a proposal to create a Task Force to review issues of sentencing and release that were too complex for the Council to consider. The issues include sentencing practices and the need for some form of guidelines, good-time and parole release, dangerous designation and other sentencing enhancements.

Rep. Vivian Brooke expressed a concern that the Task Force may not be able to see the progress of recommendations from the Council if it is instituted soon. There was discussion regarding the task force as to its purpose and possible effectiveness. Chris Christiaens had a concern that the membership did not include representatives such as probation and parole officers, pre-release center staff, prison treatment staff and the sheriff's association, who hold a wealth of information and would be affected by any changes made.

The subcommittee viewed the task force as a group of representatives who would review the criminal justice system and to make recommendations on changes that should be made, keeping all aspects of criminal justice in mind. Input is not to be limited by the membership and should be obtained from everyone in criminal justice. Senator Regan also spoke of her concern that the membership may limit the representation of women on the Task Force and that an effort should be made that it be gender-balanced. Rep. Vivian Brooke is concerned that the name of the task force does not reflect the need for corrections reform.

Margaret Borg MOVED the proposal. Sheriff Mike Schafer SECONDED the motion. The motion PASSED 11-1. Rep. Bob Thoft opposed the proposal.

Simplify Dangerous Offender Designation Ted Lympus presented a proposal to simplify the language in the statute regarding the dangerous designation by deleting the criteria.

There was discussion regarding this proposal and whether it needed more study. Some members felt that this is another patchwork proposal and that further study is needed. Other members expressed the concern that the Task Force may not be in existence and if this legislation was brought forth it would have sufficient debate in the legislature.

Rep. Bob Thoft MOVED that the proposal be accepted. Sen. Pat Regan offered a SUBSTITUTE MOTION that the proposal not be adopted. Chris Christiaens SECONDED the substitute motion. A roll call vote was taken and the substitute motion FAILED 6-6. The members opposing the motion were Sen. Beck, Colleen Conroy, Debbie Swanson, Ted Lympus, Rep. Bob Thoft, and Sheriff Mike Schafer.

Rep. Bob Thoft MOVED that the proposal be accepted. Ted Lympus SECONDED the motion. A roll call vote was taken and the motion FAILED 5-7. The members opposing the motion were Sen. Pat Regan, Colleen Conroy, Sheryl Hoffarth, Margaret Borg, Rep. Vivian Brooke, Rep. Betty Lou Kasten, Chris Christiaens.

Senator Regan MOVED that if the Task Force recommendation is adopted, that the Council recommend to the Governor that the dangerous designation be a part of the Task Force's issues to be studied. Rep. Betty Lou Kasten SECONDED the motion. The motion PASSED unanimously.

Good-time Application to Discharge Ted Lympus presented a proposal to remove the good-time application to parole eligibility date and have good-time apply to discharge date only.

Senator Regan expressed concern that this was also a patchwork solution and needed further study and should be included in the Task Force. Staff informed the Council that this was included in the Task Force to be studied. Rep. Kasten is concerned that the Task Force may not go through and that there will not be any action on this issue.

Rep. Thoft MOVED that the Council not adopt the proposal. Sen. Regan SECONDED the motion. The motion carried 11-1. Ted Lympus opposed the motion.

Probation and Parole Field Services Debbie Swanson presented a proposal to increase Probation and Parole Field Services a minimum of four probation and parole officers to deal with the current workload of probationers and parolees.

There was discussion regarding how the workload is determined. A time study is done which includes supervision of the caseload, pre-sentence investigations, court time and travel time. The previous Council requested 10 officers and five were approved. Rep. Thoft commented that currently the parole procedure is being reviewed and it is anticipated that there will be a higher parole rate.

Debbie Swanson MOVED that the proposal be adopted. Chris Christiaens SECONDED the motion. The motion PASSED unanimously.

Debbie Swanson MOVED that three half-time support positions be included in this recommendation. Chris Christiaens SECONDED the motion. The motion PASSED unanimously.

Board of Pardons Staff Debbie Swanson presented this proposal to add 3 FTE to the Board of Pardons staff: a Hearings Officer, a Pre-parole programmer, and a secretary in addition to equipment and operating expenses.

Jack Lynch, Board of Pardons Executive Secretary, clarified the job descriptions of the positions. It was agreed that the 3 FTE is the important factor, and the specific grade will be determined in the budget process.

Debbie Swanson MOVED this proposal. Chris Christiaens SECONDED the motion. The motion PASSED unanimously.

Upgrade Judicial Salaries Ted Lympus presented the proposal to upgrade judicial salaries to regional standards.

Ted Lympus MOVED that the proposal be adopted. Rep. Thoft made a SUBSTITUTE MOTION to not accept this proposal as it is not within the call of the Governor's Executive Order. Rep. Betty Lou Kasten SECONDED the motion. The motion PASSED 11-1. Ted Lympus opposed the motion.

Targeted Case Managers Rep. Bob Thoft presented the

proposal to hire 2 FTE as targeted case managers at the prison to assist inmates in the preparation for parole.

Rep. Thoft MOVED that this proposal be accepted. Chris Christiaens SECONDED the motion. The motion PASSED unanimously.

Local Jurisdiction Options Chris Christiaens presented the proposal to support local jurisdiction options be developed as alternatives to incarceration.

Chris Christiaens MOVED that this proposal be accepted. Sheriff Mike Schafer SECONDED the motion. The motion PASSED unanimously.

High Security Treatment Unit Chris Christiaens presented a proposal to build a high security treatment unit, an additional high security housing unit and an additional low security housing unit to cover the population projections through 1995, in addition to the other recommendations.

Ted Lympus said that this Council has no control over the population projections, but that corrections must deal with this population. Chris Christiaens commendted that the prison was built with support services to cover expansion. Dan Russell said that the support services were built for between 1200-1400 single-celled inmates. These additions will add significantly and will bring us to the point that the support services will not meet the needs. Senator Beck asked whether MSP is reaching the saturation point and asked if the subcommittee looked into regional jails. The subcommittee did not look into it but Legislative Leadership conference looking into the issue. Dan Russell commented that the state must look at how large the MSP campus at Deer Lodge will be. An optimum size for a prison is 500 beds, the Deer Lodge campus was built as three separate campuses, and the state may want to look at additional campuses.

The estimated costs were for one maximum security unit from 1983 inflated for 1993. Costs will have to be estimated for the low security unit.

Chris Christiaens MOVED that this proposal be accepted. Mike Schafer SECONDED the motion. The motion PASSED 11-1. Rep. Kasten opposed the motion.

Pre-release Center Expansion Chris Christiaens presented a proposal to expand pre-release services by the addition of two new pre-release centers, one for women and one for men, and 25 additional beds to the existing pre-release centers.

The recommendation includes the need for funding for Chemical Dependency counselors or money for contracted services, for which no costs were estimated.

Chris Christiaens MOVED that this proposal be accepted. Mike Schafer SECONDED the motion. The motion PASSED unanimously.

Selected Pre-release Inmates to House Arrest Rep. Vivian Brooke presented a proposal to allow selected pre-release inmates to be placed on house arrest for the last two months of their pre-release stay. This is presented as acost-effective option for those offenders who have finished the programs at the pre-release center and may be supervised in the community through house arrest.

Rep. Vivian Brooke MOVED that this proposal be accepted. Chris Christiaens SECONDED the motion. The motion PASSED unanimously.

Graduated Intermediate Sanctions for Probation and Parole Violators Rep. Vivian Brooke presented a proposal to develop graduated intermediate sanctions for probation and parole violators in lieu of prison. This proposal is intended to give judges and regional supervisors alternative sanctions to impose in lieu of incarceration, and provide alternatives to assist the offender in the reintroduction into society.

Discussion was held regarding the implementation of these options. The Department is instituting the policy at present, though the jail placement is not being used as there are no funds. Jail placement was a recommendation of the past Council but was not included by the administration, nor pursued by the Council members for lack of information.

Senator Regan expressed concern regarding the amount of money spent at what seems to be the wrong end of the spectrum. We are spending money after the people are in trouble. She asked if any studies have been done regarding the juveniles at Pine Hills and Mountain View to prevent future problems as adults.

Margaret Borg MOVED the proposal be accepted. Chris Christiaens SECONDED the motion. The motion PASSED unanimously.

Good-time for Parolees Sheriff Mike Schafer presented a proposal to grant a flat rate of 30 days per month to

parolees as an incentive for inmates to pursue parole and relieve parole caseloads. In the past good-time was granted to both probationers and parolees, but the system was very complicated and had to be discontinued. Thie porposal is for a flat-rate and only for parolees. The good-time would be forfeited upon a return to incarceration.

Sheriff Schafer MOVED that the motion be accepted. Chris Christiaens SECONDED the motion. The motion PASSED unanimously.

Commitment to a Correctional Authority Sheriff Mike Schafer presented a proposal to make a statutory change to commit convicted felons to a correctional authority, the Department of Institutions, instead of committing them directly to a specific institution.

Ted Lympus asked if the statutes would have to be amended and would the sentencing court still have the authority to place an offender at Montana State Prison if that is where the judge feels that they should go. Dan Russell said that all offenders would be sentenced to the correctional authority and the recommendation of the sentencing court must be seriously taken into consideration. This would require substantial statutory changes, including each criminal offense. All offenders would spend time at a reception area at either MSP or WCC. They would then be classified and a decision would be made as to the housing placement. The expansion of programs such as pre-release and ISP will be utilized in that process.

This would not affect the Intensive Supervision Program as those offenders' sentences are amended by the court to a suspended sentence and those offenders would not go through reception at the prison.

Senator Beck asked if the court has approved this concept. Ted Lympus felt that the judges would not have a problem with it, but Dan Russell felt that there may be some resistance to the concept. Ted Lympus agreed that there may be a knee-jerk reaction, but as a practical matter there should not be any concern.

Chris Christiaens MOVED that the proposal be adopted. Rep. Vivian Brooke SECONDED the motion. The motion PASSED unanimously.

Intensive Supervision Program to a 3rd City Rep. Vivian Brooke presented a proposal to expand the Intensive Supervision Program to a third city. This proposal is a

continuation of one from the last Council, they had requested three programs and two were approved. The program capacity would be 25 offenders. Great Falls had previously been mentioned as the city intended. The implementation costs include 2 FTE as well as the cost for start-up equipment.

Rep. Vivian Brooke MOVED the proposal be adopted. Margaret Borg SECONDED the motion. The motion PASSED unanimously.

To amend Task Force Language Senator Regan expressed a concern that the language in the recommendation for a Task Force on Sentencing and Release be changed to Rep. Brooks term of "corrections reform". Staff felt that intent was to include sentencing. Chris Christiaens felt that as long as reform was the intent, then it was covered in the previous recommendation. Senator Regan pointed out that treatment issues were not included and needed to be included as a part of sentencing. Dan Russell suggested that it be sentencing recommendations and treatment alternatives.

Margaret Borg MOVED that the language in the recommendation be amended to read "Recommend creation of a task force to take a comprehensive look at sentencing, treatment and release issues." Rep. Brooke SECONDED the motion. The motion PASSED unanimously.

Chris Christiaens brought to the attention of the Council that there was an additional issue from the subcommittee on prison overcrowding regarding a proposal for an additional level of supervision. Parole was mentioned as an additional area that needed discussion.

The Council recessed for lunch at 12:00 p.m. and reconvened at 1:20 p.m.

Temporary Housing and Programming for Female Offenders Margaret Borg presented a proposal that in the event the pre-release center expansion is not approved, that contingency funding be provided for temporary housing to meet housing needs for FY91 and FY92.

Margaret Borg MOVED that the proposal be accepted. Senator Regan SECONDED the motion. The motion PASSED unanimously.

Margaret Borg presented a second part to the proposal to recommend that the Department is to continue to implement a corrective action program similar to that presented by the Department. The recommendation supports a Department of

Institutions request for funding adequate to implement the corrective action program.

Senator Regan addressed the needs of women offenders. The subcommittee found the housing, and more importantly, the programming for the women to be woefully inadequate. The earliest time that a new facility may be available is three years, and the state cannot wait three years to address the educational, vocational and job training needs of these women. The Department is aware of these needs and is to be complimented on the plan of action which was developed to deal with the needs. (The Corrective Action Plan is on file.) The plan includes a timeline and costs. The Council should address this issue and Senator Regan asked that the Council support the actions being taken by the Department and further support the Department in the request for funding for medical training, education. They are small amounts of money and the Department is funding many of these actions with grants and creative solutions. The biennial cost is less than $80,000.

Dan Russell explained that the Department has absorbed most of the costs to date; nurses time, edu-net, college classes, business skills. The Department will attempt to fund at current level the increased contracted psychologist position. Questions were asked regarding supplemental budget requests. The Department can live within current level in this biennium, but the next biennium funding will be needed until a new facility is built. The Department is having difficulty absorbing certain costs, and they expect to find funding through other agencies, such as through the department of motor vehicles for data input for that agency. The funding for approximately $36,000 for next year has not yet been found. Rep. Brooke expressed concern that if the grants do not come through on some of these projects, would funding be available for them.

Senator Regan MOVED the proposal be accepted. Margaret Borg SECONDED the motion. The motion PASSED unanimously.

New Facility for Female Offenders Sheryl Hoffarth presented a proposal to recommend that a new facility be built for women offenders, with a capacity of 100-120 beds, with the final decision being made by the Department of Institutions. The recommendation includes that the new women's facility be the number one building priority of the Council's recommendations because of the needs which exist. The recommendation is that the Council adamantly reject private operation and recommends that it be continue to be operated by the state the Department of Institutions. Private sector funding may be considered and the method of funding should

be determined by its cost-effectiveness by the Legislative Fiscal Analyst and the Board of Investments. The Architecture and Engineering Division provided cost estimates at $9 million, which includes building but not land acquisition and that the land necessary for the site be 18-20 acres.

Sheryl Hoffarth MOVED the proposal be adopted. Ted Lympus SECONDED the motion. Senator Regan made an MOTION TO AMEND the motion that in addition to the proposal by Sheryl Hoffarth, that the items numbered 1 through 7 of the recommendation for Programming and Housing for Women Offenders be included as items which will govern the requirements and criteria for the facility itself including standards, siting, security, programs, community requirements. Senator Regan is concerned that the availability of services and volunteers be present in the community that is chosen as the site. Mike Lavin SECONDED the amendment to the motion. The amendment PASSED unanimously. The motion PASSED AS AMENDED unanimously.

Proposal for an Additional Level of Supervision

Chris Christiaens presented a proposal which was presented to the subcommittee by Mike Ferriter for the Department of Institutions. Dan Russell explained the concept that in between regular supervision and intensive supervision, there is a need for an extended level of supervision which would include house arrest as an element. The Intensive Supervision equipment can be utilized for curfew calling without wristlets and may be used as an additional alternative sanction for violators or for an inmate who would not be parole to regular supervision. The equipment can be used from the two present communities anywhere in the state, in addition to the equipment, if approved, for Great Falls.

Chris Christiaens MOVED that the proposal be adopted. The motion was SECONDED by Sheryl Hoffarth.

Clarification was made regarding the proposal for additional FTE and that the Department is proposing this to be recommended by the Council. Rep. Brooke was concerned about how "foolproof" the equipment is, and Dan Russell explained how the equipment works. The calls are made randomly and there are mechanisms to assure that the offender is home and actually answering the call.

Dan Russell explained that the Department is looking for every viable alternative. He offered to withdraw the proposal for the 4 FTE, if the long-distance costs could be covered. The workload would be absorbed, as there are

recommendations for more officers. Chris Christiaens expressed concern for the Field Services budget for more urinalysis and drug testing. The long-distance costs are calculated to be $17,500 for the biennium.

Mike Lavin made a SUBSTITUTE MOTION that the concept and the long-distance call costs be recommended, but that additional FTE are not included. Margaret Borg SECONDED the motion. The motion PASSED unanimously.

Parole Issues

Chris Christiaens expressed concern that one of the calls of the Governor was to look at parole issues. The subcommittee was presented with a draft of agreements between the Board and the Department to date, but the subcommittee and Council have not had an opportunity to work on parole issues and develop recommendations. Mike Lavin asked about the discussion surrounding the agreement in the subcommittee meeting. Chris Christiaens listed ISP, waivers, classification, parole eligibility guidelines, emergency release, and a statutory cap on prison populations as issues that had been discussed previously. The agreements have not been reported to the subcommittee sufficiently to allow the subcommittee to act. Mike Lavin understood that the Council would be given proposals to act upon. Mike Lavin said that his subcommittee has been frustrated with the lack of concrete agreements that the subcommittee would be allowed to act on to make recommendations to the Council. Parole is in the call from the Governor and an area which impacts prison populations.

Dan Russell commented that his understanding of the expectations were that there were questions that the Board and the Department had to work on and the Council was interested in the outcome. The draft, which was presented to the Council on June 7, is a list of those issues and the agreements to date. The issues addressed were: intensive supervision policy, which is in place; the waiver issue has been addressed and the inmates on waiver status will be reviewed by January 1, 1991. There is a new policy in place on initial classification of inmates in effect for July 1, 1990.

Chris Christiaens was asked to address what was discussed in subcommittee regarding parole eligibility criteria at the meeting June 7. He asked Jack Lynch to comment. Jack Lynch described the process that the Board and the Department have gone through since the Great Falls meeting and referred to the draft which states the agreements made so far. The one area on which he stated there was no agreement was that regarding any salient factors or matrix system for parole

release. Mr. Keegan felt that the statutes give discretion to the Board and any salient factor system takes away that discretion. They are not comfortable with giving up that discretion for the final release decision, with the statute the way it is.

Senator Regan asked what the criteria or guidelines are which are used for parole, such as a specific form. Jack Lynch indicated that there are guidelines in statute, administrative procedures, and parole release process and the Board has indicated to the Department director that, when time permits, they will pull all of that together in a concrete form to present to the Governor. Margaret Borg asked if that would be made available to the inmates. Jack Lynch indicated that when the pre-parole programmer is in place, during the initial classification that position will represent the Board in the development of a parole plan and what is perceived to be the needs. The case worker will then assist the inmate in programming. Margaret Borg asked if she was correct that, historically, the concern has been twofold. One, that the Department is not convinced that they know what the criteria are being used in order to utilize information for population and treatment planning; and second, that the inmate does not have enough information to begin a program to become parole eligible as soon as possible, and she asked Jack Lynch if he is convinced that has been addressed. Mr. Lynch believes they have made an honest effort. He commented that there is no predictability until the parole hearing takes place whether an inmate will be paroled. The inmate's behavior in the actual hearing may affect the decision. Ms. Borg asked if they have maximized the options for the inmate. Mr. Lynch responded that he thought it had been done.

Mr. Lavin returned to the idea of release process and procedures. His understanding of the agreement that has been reached is to take the current process and put it into a format for the Department of Institutions, but that it will not represent any change or examination of how the process could be changed. Mr. Lavin expressed that the subcommittee had expectations that the deliberations between the Board and the Department would be brought to the subcommittee for them to discuss. Mr. Lynch indicated that there have been delays, but that a good faith effort had been made.

Senator Regan asked why a grid system or ranking system was not liked. She asked him to address the availability of technical assistance from NIC to assist boards to develop objective criteria. She understands that there is quite a bit of subjectivity and therefore uncertainty. She asked if the Board had inquired into the technical assistance

available. Chris Christiaens indicated that Mr. Keegan indicated in the subcommittee meeting that the Board was not interested in pursuing technical assistance. At the first meeting, the Council indicated that it was concerned with the inability of the two factions to resolve the problem and the Council indicated at that time it was willing to bring legislation, and the Board may not want that and wan to be left alone. Mr. Lynch indicated that the authority to parole is vested in them by the legislature. They do not want to be locked into a grading system and need the discretion to make that release decision.

Margaret Borg understood that the Council in essence said to the Department and the Board, fix it or we'll fix it for you. She asked if the understanding is that the Council is not satisfied with what has been done and that the Council should make specific recommendations about addressing certain areas. Mr. Lavin responded that is his understanding. Mr. Lavin addressed Mr. Lynch that the authority has not been questioned, it is the subjectivity that is no longer affordable with the size of the population. With the population projections as high as they are, there ought to be some criteria in place that most states' institutions use for release. The issue of emergency release came up in a past meeting and Henry Burgess indicated that he wouldn't discuss it. Mr. Lavin would like to see a recommendation that at some time, someone will present to the Board of Pardons the alternatives to the process which presently exists. We should take advantage of the expertise at the National Institute of Corrections available at low cost. If they come and make recommendations and say everything is fine, then that is fine. There ought to be some examination and recommendations.

Senator Beck asked if there was time for one meeting of the subcommittee, the Board and the Department. Senator Regan wanted the understanding to exist that if there is no meeting of the minds, the subcommittee will address the issues, legislatively, if it has to be that way. Senator Beck stated that direction from the Governor was to minimize prison overcrowding and parole is a major part. He wants to give the opportunity to work it out at one more meeting. Senator Beck asked staff for final copy of what was accomplished today. Senator Regan asked if the subcommittee would have something prepared if there is not agreement. Senator Beck asked the subcommittee on prison overcrowding to meet, and to discuss the issues which are unresolved with the Board and the Department. If any issues remain unresolved, the subcommittee is to make recommendations to the Council that the Council can forward to the Governor. The Council was reminded that the grant expires June 30 and

we must try to meet before that date in order to utilize funding necessary.

ADJOURNMENT

The Council adjourned at 2:40 subject to the call of the chair.

MINUTES

Subcommittee on the Study of Women Offenders

MEMBERS

Senator Pat Regan, Chair
Senator Tom Beck
Margaret Borg
Colleen Conroy
Sheryl Hoffarth

Dan Russell
Rich Petaja, staff

Guests
Steve MacAskill, WCC
James Whaley, Department of Administration, Architecture and Engineering Division

Discussion of interim concerns for the indefinite period between subcommittee recommendations and construction of a new facility included the current waiting list for women needing chemical dependency services. Also discussed were problems associated with getting women into appropriate treatment programs.

James Whaley, chief, Facility Planning Bureau, Architecture and Engineering Division, Montana Department of Administration, presented preliminary space and cost information for considerations during discussion about a new women's prison. A&E submitted preliminary specifications for a facility with 93 beds and support services for about 150-175 inmates.

The design could easily be expanded by an addition of 24 bed units and/or modified to fit programmatic needs as determined during future planning. Cost figures of less than $9.5 million for the facility were lower than anticipated based on comparison with prisons for women in other states. The low cost was due to cost-saving decisions in construction materials selected and other decisions. It was also the result of emphasis on lower-cost medium and minimum security housing units.

To address subcommittee concerns about interim measures currently being taken to improve WCC services until a new facility exists, Steve MacAskill and Dan Russell presented (in detail) the Corrective Action Plan (on file). They discussed progress to date; improvements currently being

implemented, and programs pending. Senator Regan requested from Mr. MacAskill a list of specific improvements with anticipated time frames until completion (in Corrective Action Plan.)

The subcommittee agreed to support the following:

1. Addition of two more beds at WLSC.
2. Construction of another pre-release center for women.
3. If options 1 and 2 are not funded, legislature should ensure sufficient monies are provided to allow for alternative placements of programming for women offenders, and
4. Support legislative decisions which will obligate the state to provide future funding needed to ensure continuity of WCC programs.

The topic of privatization was addressed with encouragement from Senator Regan. Margaret Borg felt this involved two major issues: (1) Privatization of the facility operation, and (2) Privatization of construction/ownership.

The subcommittee rejected the option of turning the operation of the facility over to a private corporation. This was based on concerns about liability issues and American Bar Association findings.

The subcommittee did no reject any source of funding including General Obligation Bonds, Lease-Purchase, or private funding. The subcommittee felt that this decision should be determined at a later date following detailed examination of interest rates and other advantages/ disadvantages. The subcommittee also felt decisions regarding who would build the new facility should also be decided after more complete analysis and that the Legislative Fiscal Analyst should be required to see which method was most cost-effective. An important consideration will be how long it will take before the facility can be operational.

The subcommittee discussed the importance of prioritizing the women's prison as number one in prison construction. The Department of Institutions should continue to operate the facility. A note was made that the projected costs include the building, but not land acquisition. A site from between 18 and 20 acres is needed for the project.

MINUTES

Subcommittee on Sentencing and Release Practices

MEMBERS

Ted Lympus, chair
Judge Don DuPuis
Representative Betty Lou Kasten
Judge Thomas Olson
Debbie Swanson

Susan Byorth, staff
Jakc Lynch, BOP staff

Ted Lympus requested that the subcommittee review each recommendation and that a member volunteer to present each recommendation.

The subcommittee withdrew support for the proposal to revise the correctional policy as long as the concern for youthful offenders and sex offender treatment was included in the recommendation for the Task Force on Sentencing issues.

The subcommittee approved the recommendation to create a legislative oversight committee which would review legislation for its impact on the corrections system. It was decided that the recommendation leave the method and type of committee up to the Governor and legislative leadership. Rep. Betty Lou Kasten agreed to present the recommendation.

The subcommittee discussed the recommendation to simplify the dangerous designation. Ted Lympus did not feel that the judges would increase use of the designation as the discretion is already present in the statute. It was believed that the simplification was necessary to give judges the discretion in deciding the dangerousness of an offender. Ted Lympus agreed to present the recommendation.

The subcommittee approved the recommendation which would change the good-time application to discharge date only. The potential population impact was discussed and it was believed that the judges would respond in sentencing to the simpler method because they would be more certain of the time an offender would spend in prison. Ted Lympus agreed to present the recommendation.

The subcommittee approved the recommendation for the Task Force on Sentencing and Release. The Task Force was

felt to be an important element in straightening out all of the concerns regarding good-time, the dangerous designation and other sentencing enhancements, the need for some form of guidance in sentencing and the general criminal justice system. It was believed that by having membership from the various areas of criminal justice that the system could be effectively changed. Rep. Betty Lou Kasten agreed to present the recommendation.

The subcommittee approved the recommendation to increase probation and parole field services by a minimum of four officers. They also approved the recommendation for the Board of Pardons staff and amended the recommendation to reflect two position, a Grade 16 and a Grade 15, as well as a secretary, equipment, an automobile and operating expenses. Debbie Swanson agreed to present the recommendations.

The subcommittee approved the recommendation to upgrade judicial salaries to regional standards. They felt that though the caseload of criminal cases may seem low, the actual workload on criminal cases is substantial. Ted Lympus agreed to present the proposal.

MINUTES

Subcommittee on Prison Overcrowding
June 7, 1990

MEMBERS

Mike Lavin, Chair -- absent
Chris Christiaens, Vice-chair
Sheriff Mike Schafer
Rep. Vivian Brooke
Rep. Bob Thoft

Guests
Henry Burgess, Chair, Board of Pardons
Mike Ferriter, Department of Institutions
Thomas Keegan, Board of Pardons
Jack McCormick, Warden MSP
Craig Thomas, Board of Pardons staff
Sandy Whitney, Legislative Fiscal Analyst

Ted Clack, staff

Mr. Christiaens began the meeting by stating that each subcommittee recommendation would be briefly reviewed and discussed and that a presenter for each would be chosen. The following recommendations were passed by the committee.

1. MSP Construction: Two high security compound housing units, one to be for "special needs" inmates, and one low-security housing unit was recommended. These units were recommended to meet projected 1995 prison populations. Chris Christiaens, sponsor.

2. Local correctional program options. State support for local development of alternative correctional programs to serve as alternatives (e.g. house arrest, community service) to incarceration was recommended. This recommendation was advanced as a proposal, not a finished product. Vivian Brooke (?) sponsor.

3. Pre-release center expansion: Two new pre-release centers, one for females, and expansion of existing centers was recommended. These expansions are necessary to meet the needs of projected prison populations. Chris Christiaens, sponsor.

4. Releasing selected pre-release inmates to house arrest for the last two months of their sentences. The recommendation was advanced to make more effective use of limited pre-release center resources. Vivian

Brooke, sponsor.

5. Institute graduated sanctions for parole violators as alternatives to reincarceration. Vivian Brooke, sponsor.

6. Institute awards of flat-rate good-time (30 days per month) for parolees, to serve as an incentive to pursue parole and reduce parole caseloads. Accrued parole good-time would be forfeited only upon reincarceration. Mike Schafer, sponsor.

7. Statutory change to commit felony offenders to a state correctional authority, rather than to specific institutions or programs. This recommendation was advanced to allow the Department to make more appropriate use of its resources. Mike Schafer, sponsor.

8. Expand the Intensive Supervision Program to a third city. Vivian Brooke, sponsor.

9. Employ two institutional case managers at MSP to address inmate treatment and parole needs. Bob Thoft, sponsor.

Mike Ferriter was asked to discuss recent program changes instituted in probation and parole. Mr. Ferriter explained procedural changes in supervision of probationers and parolees, particularly with respect to revocations and proposed a further level of field supervision -- "extended supervision." This level of supervision would be less stringent than Intensive Supervision but more so than present "maximum" supervision. The proposal was advanced as a means to focus resources on clients who are near revocation but may be diverted from prison. The committee asked the BOP members present whether the BOP supported the program changes and the proposal. The BOP members stated their approval. The subcommittee then endorsed the program changes and moved to propose Extended Supervision as a Council recommendation.

Mr. Ferriter then described a grant received from the Montana Board of Crime Control by the Missoula Pre-release Center to provide a community service program. The program will supervise probation/parole violators and misdemeanants all on sentence from the courts. The program was funded to serve as a pilot for development of similar programs in other cities.

The BOP was asked to discuss the progress to date in resolution of disagreements between the Board of Pardons and the Department. Board members indicated that agreement had been reached in many areas. Committee members asked whether

agreement had been achieved on the use of objective criteria in parole decisions and whether technical assistance would be sought from NIC. Board members stated that technical assistance would not be pursued nor would objective criteria be used in decision making. The Board will provide the Department with a list of "parole guidelines" that will identify the procedures used in parole decision-making.

MINUTES

Subcommittee on Prison Overcrowding
June 19, 1990 #8)
Department of Justice Conference Room
Helena, Montana

MEMBERS

Mike Lavin, Chair
Chris Christiaens, Vice-chair
Sheriff Mike Schafer -- excused
Rep. Vivian Brooke
Rep. Bob Thoft -- excused

Guests

Henry Burgess, Chair, Board of Pardons
Curt Chisholm, Department of Institutions Director
Thomas Keegan, Board of Pardons
Jack Lynch, Board of Pardons staff
Dan Russell, Corrections Division Administrator
Keith Wolcott, Department of Institutions Deputy Director

Ted Clack, staff
Susan Byorth, staff

Mike Lavin called the meeting to order at 10:00 a.m. and distributed a memo (attached) he had prepared regarding the parole issues of concern to the subcommittee. He asked Mr. Chisholm to report on any further progress made by the Department and the Board. Mr. Chisholm reported that the Board and the Department met on Friday, June 15. He reported on the agreements between the Board and the Department regarding procedures, process and policy. Mr. Chisholm is not recommending to the Board that it adopt a matrix mechanism or risk assessment. Both sides are open to exploring the available options. The agreement is that the Board and the Department will work together to develop criteria for policy and procedure which relate to parole eligibility, such as definitions of an adequate parole plan and acceptable behavior, etc.

Mr. Lavin stated that Senator Beck had asked the subcommittee to hold one more meeting to clarify agreements and to make recommendations. Mr. Lavin asked that those present at the meeting go through the statements made on the memo. Agreement has been reached regarding the waiver status of inmates. The BOP will review those inmates on waiver status and reach some decision regarding their "parolability" by February, 1991. The BOP has agreed to work with the Department of Institutions to determine how to better use the supervised release program. The BOP will provide the Department with "guidelines" on the current parole policy which

exists. They will include a codification of existing statutes and administrative rules. The Committee believes that there should be more. Chris Christiaens stated that should already be available as the Council has been asking for that information for two years.

Mr. Keegan did not see the Board's mandate as one to reduce prison population. Mr. Christiaens indicated that the Council has explored many areas and only wants the Board of Pardons to actively participate. Mr. Keegan explained that parole eligibility dates are only a mathematical computation and that it is up to the Board to decide parolability. The Board of Pardons is mainly concerned with public safety. Mr. Chisholm assured the Board that everyone assumes that public safety is a concern, but that something must be in place to assure that appropriate people remain in prison and that others are paroled from prison. Rep. Brooke suggested that the Council is only looking for some middle ground on how to arrive at parolability.

Mr. Lavin returned to discussing the memo. The BOP has agreed to participate in the initial inmate classification procedure and to regard SRFC inmates as suitable parole candidates in the absence of extenuating circumstances. The BOP also presented a draft of its dispositional categories and agreed to develop a joint information system with the Department of Institutions.

The primary area of disagreement is over the use of written, objective criteria. Mr. Lavin suggested that technical assistance is available and that the Board should utilize it. Mr. Burgess mentioned that he has been studying the NIC technical assistance offer to devise a system of guidelines. Of nine states requesting the assistance, six completed the work and three withdrew from the process as they found they could not use the method or did not need it. The other states were large and needed a structured system. The Board members have spoken with the surrounding states and found that Idaho strongly opposed objective criteria as it creates a liberty interest and brings forth numerous lawsuits. Idaho uses criteria similar to Montana. Wyoming also uses criteria similar to Montana. South Dakota uses a risk assessment tool, but the Board has override authority. North Dakota tried to develop criteria and found it useful only 20 percent of the time.

Mr. Lavin said that he would not jump to the conclusion that technical assistance was not worth looking at based on those comments. He did not expect the technical assistance to develop guidelines, but to come up with recommendations regarding the options the Board may have.

Mr. Burgess pointed to the fact that the Board paroles approximately 65 percent of those interviewed for parole. The number revoked at the end of the year was 25 percent and approximately 7 percent were revoked for new crimes. Mr. Christiaens asked if this was on the first hearing and Mr. Burgess

said not necessarily. Mr. Burgess added that information on sentences points to the fact that average sentences are increasing, length of stay, number of consecutive sentences, number of dangerous offenders and the numbers who are ineligible for parole have all increased. Mr. Lynch pointed out that the numbers of parole are increasing and so are the numbers of those returning as parole violators. As more inmates are released on parole, the numbers returning will increase.

Rep. Brooke commented that the Council has made recommendations regarding resources for the system, and that the Board needs to look at the state's needs. Mr. Lynch indicated that the Board uses the resources available. The Board has been giving "the benefit of the doubt" to those in Pre-release and has paroled a high percentage. The Board is not seeing inmates who are the "cream of the crop." Mr. Christiaens asked what criteria was being used and why was the Council not informed. Mr. Lynch indicated that the practitioners know the criteria. Mr. Burgess commented that he was in contact with Mr. Chisholm and that the Board did not have time to always fully inform everyone what they were doing.

Mr. Burgess indicated that structured decision making may have an opposite effect of what is happening now and may eliminate the current number of paroles. Mike Lavin noted that twenty states had applied for TA funding, but funds were only available for 9 states. Mr. Russell indicated that program was completed and that the TA funding available is short-term. NIC would supply the Board with names of those consultants familiar with parole for the Board to choose. Rep. Brooke asked how numbers in Montana compared with other states. Mr. Burgess indicated that five or six years ago, Jack Lynch inquired into other states and found that Montana was head and shoulders above other states. Mr. Burgess feels that the problem is that too many inmates are not prepared and that is being addressed now with the pre-parole programmer. Mr. Lynch indicated that would help with the waiver status inmates too. Many problems will be addressed and resolved over time.

Mr. Chisholm urged the group not to argue over the validity of numbers. A common data base is one area in which the Department and the Board are in agreement. A perception has been created that there is a problem at the prison, and the policy voids will be filled. He wants the Department and the Board to identify and profile all of the inmates who are eligible, though they may not be cream of the crop. The Governor has demanded some changes, and has a right to have his policy reflected in corrections. Mr. Chisholm told the Council members that they should not feel restrained in making any recommendations, but that the Board and the Department may not support them.

Mr. Christiaens asked that some deadlines be placed on the agreements and recommendations. Mr. Lavin inquired as who was appropriate to pursue technical assistance. Mr. Burgess indicated

that the Board was the appropriate party to request technical assistance. Mr. Keegan stated that he was not comfortable being dictated to by the Council, he did not agree with technical assistance but would go along.

Mr. Christiaens MOVED that the Board of Pardons pursue technical assistance from the National Institute of Corrections, Any such assistance should entail a review of Montana's parole practices and criteria and proposed alteration of those practices, as necessary, to ensure that the parole process is just, efficient and cognizant of the needs of public safety. Mr. Christiaens asked if this language was acceptable. The Board members indicated yes. Rep. Brooke also wants some cost estimates of alternatives to be developed. The motion was seconded and PASSED unanimously by the Council members Lavin, Brooke, and Christiaens.

Mr. Christiaens asked to discuss issue #3 in the memo regarding a formal statement stipulating that otherwise parole-eligible inmates who require some form of treatment will be paroled to plans incorporating treatment. Mr. Keegan indicated that the Board is willing to take recommendations from the treatment staff at the prison regarding whether the appropriate treatment is in-patient or out-patient. Mr. Burgess requested that the language be changed to "may be" as the Board does not need to be told what to do. There was some discussion on how dispositional categories could fit into this recommendation. It was settled that they are included in the draft dispositional category document.

Chris Christiaens MOVED that the Council recommend that the Board of Pardons and the Department of Institutions issue a formal statement recommending that otherwise parole-eligible inmates who require some form of treatment may be paroled to plans incorporating treatment in licensed, community-based programs, by March 1, 1991.

Mr. Keegan commented that this was not a policy issue and amounted to micro-management. He cautioned that just because the recommendation is made does not mean that the Board will do it. The Board and the Departmental policies are separate and the Board is quasi-judicial. The motion was seconded and PASSED unanimously.

Mr. Chisholm, in reference to #2 of the memo, asked that some form of statutory cap would be appropriate that does not force anyone to do anything but him as director. Mr. Christiaens commented that only the Legislature can amend statute and not the Board or the Department. Rep. Brooke amended the recommendation and MOVED that the Legislature should amend the state's prison population control statute. The mechanism is then left to the Legislature. Mr. Christiaens SECONDED the motion and it PASSED unanimously.

When asked if the subject of supervised release has been agreed upon, the Board indicated that nothing had happened. Mr. Russell indicated that the statute was changed in the last legislature, the grid had been made less restrictive, and that the targeted case managers should pursue supervised release as an alternative to incarceration. Rep. Brooke recommended that the supervised release plan be more widely utilized. Mr. Christiaens asked if that in itself would accomplish anything. Mr. Christiaens MOVED that the Council recommend that the Board of Pardons and the Department of Institutions issue a formal, written agreement stipulating the conditions under which the Supervised Release Program can become an effective, well-used alternative to incarceration by March 1, 1991. The motion was seconded and PASSED unanimously.

Staff inquired into the necessity of a final meeting. Council members felt it was important for the Council to review and discuss the parole recommendations in order to finalize them. Mr. Chisholm indicated that the final package and its impact should be presented to the Council. A draft format similar to the "red book" should be prepared. If the meeting cannot be accomplished before June 30, it will be necessary to bring staff back and hold the meeting at a later date.

The meeting adjourned at 12:15 p.m.

MINUTES

Criminal Justice and Corrections Advisory Council
Meeting #8
Wednesday, July 25, 1990
Department of Institutions Conference Room
Helena, Montana

MEMBERS PRESENT:
Senator Tom Beck, Chairman
Margaret L. Borg
Representative Vivian Brooke
Henry Burgess
Chris Christiaens
Colleen Conroy
Representative Betty Lou Kasten
Mike Lavin
Ted O. Lympus
Dan Russell
Sheriff Mike Schafer
Debbie Swanson
Representative Bob Thoft

MEMBERS ABSENT:
Sheryl Hoffarth
Judge Donald DuPuis
Judge Thomas A. Olson
Senator Pat Regan

GUESTS:
Bob Anez, Associated Press
Curt Chisholm, Director, Department of Institutions
Tom Keegan, Board of Pardons
Mary LaFond, Governor's Budget Office
Emilie Loring, ACLU
Harriet Meloy, Helena Committee
Jack McCormick, Montana State Prison
Keith Wolcott, Deputy Director, Dept. of Institutions

STAFF: Susan Byorth

CALL TO ORDER

Senator Beck called the meeting to order at 1:35 p.m. on Wednesday, July 25.

ADOPTION OF MINUTES

The minutes from the April 17 and 18 meeting were approved and adopted. The minutes from the June 7 and 8 meeting were

approved and adopted. The minutes from the June 19 Prison Overcrowding Subcommittee meeting were approved and adopted.

DIRECTOR'S COMMENTS

Curt Chisholm, Director of the Department of Institutions, stated that he asked for this wrap-up meeting in order that the Council members could review a draft of the total package of recommendations in terms of cost and the way they are stated, and for the Council to fine-tune the draft at this meeting. He asked if the Council wanted the opportunity to present their recommendations to the Governor and allow him the opportunity to interact with them. Senator Beck states that the Council wanted to have a final draft prepared and the subcommittee chairs, he, Dan Russell, and Curt present the recommendations to the Governor at a later date. Mr. Chisholm thanked the Council for all the work they had done and their deliberations on all of the issues. The recommendations will be of great help to him and the Governor in terms of establishing a sense of direction for the corrections division in the short and long term.

Mr. Chisholm wanted to point out his intentions regarding the recommendations, which the Governor will have to decide on to take to the Legislature. Relative to the ambitious building program in the recommendations, he stated a desire to see Montana in a position to deal with a reasonable number of inmates without trying to build out of the crisis. He is interpreting the number of beds represented in the three housing units as a recommendation, given population projections, that the system will have to come up with that number of beds in the time frame in the draft. How the state comes up with those beds may be through a different method than a straight-forward building project, if at all possible, which he believes is in the spirit of the Council's recommendation. If the Council does not agree, he needs the Council to give him insight into their thinking. He was referring to the concept of taking over the Galen and Warm Springs campus for prison use in lieu of building.

Secondly, he would like to try and emphasize the non-construction remedies, both in terms of administrative policy changes or implementation of alternatives before building projects, if they are avoidable. The non-construction alternatives will be given a great deal of serious consideration, almost as priorities, to deal with the population.

Thirdly, relative to the Galen/Warm Springs issues that have been in the press, the Department is not ready to make any

official announcements regarding the findings of lengthy and in-depth internal processes, especially in relation to the Deer Lodge valley. There are a number of vulnerable programs regarding Galen, and the department is continuing to explore what to do with that facility. The warden is looking at the campuses, if ever vacated, to be used for the male correctional programs in the state. Mr. Chisholm has met with economic development groups in the valley to let them know the general direction they are taking. They are working with the Department of Commerce to assess the economic impact on the area, if programs are phased out. The department is trying to remain flexible in the alternatives available to them.

Relative to the recommendations specific to women's correctional programs and the need for a new facility, Mr. Chisholm wished to clarify that the department has not in the past, nor is planning in the future, on soliciting inappropriate input from communities based on economic development. Based on the recommendations from the Council, the Department is interested in exploring a new facility or an appropriate facility which may be remodeled for a correctional facility. The Department will be looking to limiting the types of communities which the facility could be appropriately placed or developed in. The programming at WCC must be dealt with through the next biennium and in developing a legislative package. The site selection process should be carefully controlled and contingent on the best interest of the women's offenders for programming and facilities and not based on general competition.

Senator Beck interpreted that some construction would need to be done, especially in terms of the women's correctional facility. Margaret Borg reiterated that the recommendation is to build something from scratch, in response to options at the Galen/Warm Springs campus. They may be appropriate for men's program options, but not for the women. Chris Christiaens pointed to page 11 of the recommendations, and stated that it is clear that the recommendation is to build a new women's facility and that it be the number one building priority. Mr. Christiaens cautions that to talk of the use of the Galen/Warm Springs campus as temporary is similar to the past use of the Women's Correctional Center at Warm Springs as "temporary" which became permanent.

Senator Beck asked if the economic impact on the Deer Lodge valley and the Department of Commerce's assessment is negative, would it make any difference in the decision. Mr. Chisholm asked the Department of Commerce to assess the impact as that is their area of expertise. Senator Beck asked if his understanding that the impact is being assessed now was correct, and Mr. Chisholm replied that the Galen

campus is being assessed for closure and use as a temporary facility for men. Mr. Chisholm said that the report would be available in the next two or three weeks.

Mr. Christiaens asked which programs at Galen would be phased out. Mr. Chisholm replied that the entire program if that is what the data supports. Galen houses three programs: a 33-bed acute care hospital, a 185-bed nursing home, and a chemical dependency program which consists of the alcohol services center of 72 beds and the Lighthouse program of 15 beds. If the acute care hospital or the nursing home cannot be justified, the chemical dependency program will not be able to be justified either. Mr. Christiaens commented that he has spoken to the Department of Health regarding Tuberculosis cases that are on the rise. Mr. Chisholm commented that they have been in contact with the Department of Health regarding the issue, but the limited number of cases would also not justify the Galen campus.

Mr. Christiaens also wondered what resources would replace the Lighthouse program, as the Great Falls Pre-Release Center already has long waiting lists for Lighthouse and there are no alternatives. Mr. Chisholm stated that the Department of Institutions is responsible for chemical dependency and they are trying to stay as current as possible and to be responsible. Intensive out-patient or two-by-four programs may be as effective as in-patient programs. Alcoholism is a major program in the state but the treatment is being funded on a declining revenue base. The state is in a dilemma regarding how many in-patient beds that it needs.

Senator Beck asked whether the decision will be made by the Department or by the Legislature. Mr. Chisholm stated that if the Department intends to substantially change the Galen and Warm Springs' campuses, the Department would bring the recommendation to the Legislature. There will need to be a public announcement regarding the recommendations prior to the legislative process. Senator Beck stated that he had been receiving phone calls and that they are asking that the Department be right up front with the decision as the people want to know where they stand.

PAROLE RECOMMENDATION #17

Mike Lavin led the discussion on recommendation #17. The recommendation was formulated at the June 19 meeting of the prison overcrowding subcommittee. The basis of the discussion was a memo prepared by Mr. Lavin which summarized those areas where agreement had been reached and those ares

in which it had not. (The memo is on file and mailed with the June 19 minutes.) The subcommittee was joined with Mr. Burgess, Mr. Keegan, Mr. Lynch, Mr. Chisholm, Mr. Wolcott, Mr. Russell and staff. The results of the discussion on the memo are the four items in recommendation #17. The council discussed each item in the recommendation:

#1- The Board of Pardons should pursue technical assistance from the National Institute of Corrections. The subcommittee had unanimously agreed that the Board would be the applicant for T.A. The NIC should be asked to supply options which the Board may consider, not specific objective criteria. Mr. Burgess agreed and he has been in the process of compiling the information necessary for a letter of request which should be sent in several weeks. The recommendation was MOVED by Margaret Borg and SECONDED by Rep. Vivian Brooke. The motion PASSED unanimously.

#2- The Legislature should amend the state's prison control statute (Statutory Cap). The subcommittee discussed the need for a statutory cap. The recommendation was a broad one to leave the mechanism up to the Legislature. Mr. Chisholm had asked that the subcommittee consider a statutory cap. His statement was to clarify that the cap which he intends is one that gives the Department the authority to house inmates in other facilities and not accept any over the cap, versus one which forces parole or other methods. The subcommittee agreed. Dan Russell reviewed other states' methods which range from not accepting prisoners which back-up in county jails, to additional good-time, or mandatory parole rates or release. Changing the statute would enable the Department to ask for an appropriation which would allow the Department to compensate county jails for holding state prisoners. The Department currently does not have funds to reimburse the counties. Clarification is also needed on the different types of inmates and the jurisdictions who are liable. The current prison control statute states that inmates may become parole eligible 120 days prior to their parole eligibility date. Mike Lavin MOVED the recommendation, Sheriff Mike Schafer SECONDED the motion and it PASSED unanimously.

#3- The Council recommends that the Board Of Pardons and the Department Of Institutions issue a formal statement recommending that otherwise parole-eligible inmates who require some form of treatment may be paroled to plans incorporating treatment in licensed, community-based programs by March 1, 1991. Mr. Burgess stated that the Board had a great interest in paroling chemically dependent inmates to the community for treatment, but that in the interest of public safety, sex offenders, mentally ill, or

assaultive inmates should be treated before parole. Mr. Lavin commented that is why the language in the recommendation was changed to "may be paroled." Rep. Vivian Brooke MOVED the recommendation, Mike Lavin SECONDED the motion, and the motion PASSED unanimously.

#4- The council recommends that the Board Of Pardons and the Department Of Institutions issue a formal, written agreement stipulating the condition under which the Supervised Release Program can become an effective well-used alternative to incarceration by March 1, 1991. Mr. Burgess stated that the Board is very concerned with this program as it has been underutilized. Mike Schafer MOVED the recommendation, Ted Lympus SECONDED the motion and the motion PASSED unanimously.

Mr. Christiaens asked Mr. Chisholm and Mr. Burgess for information on follow-up to the Governor's letter of March 14, 1990. Mr. Chisholm stated that he has not formally responded to the Governor, yet, he has been in verbal contact with the Governor to keep him apprised of the progress. The Board and the Department had been meeting regularly and work is being done on the remaining issues. Mr. Chisholm did not feel that the Board and the Department would stale-mate on the issues and that a statement is not necessary. Both policy and process are being reviewed and agreement has been reached on numerous issues such as waivers, resource issues, initial appearances, dispositional categories, etc. Mr. Burgess stated that he was working on a draft of the criteria for parole from the state Constitution, statutes, A.R.M., and a draft should be to the members in two to three weeks. Mr. Christiaens was satisfied.

REVIEW OF RECOMMENDATIONS

Susan Byorth reviewed the recommendations and noted any changes made. Recommendations 1, 2, and 3 remained the same.

In recommendation #4 (pg. 22), the cost of the automobile was changed to $9899 to reflect current costs of automobiles used by probation and parole. Mr. Lavin was concerned that the second sentence in the Prison Population Statement was written as a condition and that was not the intent. The second sentence was deleted and an alternative sentence inserted: "The intent is for the pre-parole programmer to participate in the initial classification process to develop treatment plans (for all admissions)." The final sentence under Implementation Issues was amended to read: "This recommendation will facilitate parole release if a

coordinated process is instituted in conjunction with a set of objective guidelines that represent the criteria for parole." The phrase "set of objective guidelines that represent the criteria for parole" was taken from the language in the Governor's letter of March 14, 1990 to the Board. The amended language was MOVED by Mike Lavin, SECONDED by Chris Christiaens, and PASSED unanimously.

In recommendation #5 (pg. 23), the office equipment costs were increase by $175 to $350 to include office equipment for the second officer. Mr. Keegan wished to correct a sentence under Statement of the Problem regarding the annual review status inmates. The fourth sentence was amended to accurately reflect the process and to read: "The latter has been informed by the Board of Pardons that they are denied parole and the case will be reviewed annually." Clarification was made regarding the Boards review of all waiver status inmates, and the process of annual review. Under Implementation Costs, Dan Russell wished to correct the sentence regarding the targeted case manager at WCC. A federal grant received for a chemical dependency counselor who will also assume the duties of targeted case manager. The sentence in the second paragraph was amended to read: "The targeted case manager for WCC will be provided by a federal grant." Under Implementation Issues, the sentence was amended to reflect the process and to read: "The Targeted Case Manager is part of the initial classification process." The amended language was MOVED by Chris Christiaens, SECONDED by Margaret Borg, and PASSED unanimously.

Recommendation #6 was not changed. A typographical error was discovered in recommendation #7 under Implementation Costs on page 27 and changed to reflect the accurate figure of $3.2 million.

Recommendation #8 was changed only in format. In recommendation #9, an estimate was made for the number of offenders who could be processed through the program and the estimate is less than that at the June 8 meeting. In recommendation #10, an new estimate was made for 50 violators per year for 30 days jail placement at an average cost of $38/day. The cost was lower than estimated at the June 8 meeting. Recommendation #11 was not changed. In recommendation #12, on page 38, the language under section 46-18-201 was changed to include both correctional institutions or correctional programs. Susan Byorth informed the Council that the Interim Committee on Detention was going to make a similar recommendation. In recommendation #13, the equipment costs did not include the purchase of a computer and wristlets and those costs have been incorporated. There were no changes in recommendation

#14. An error in the population projections was corrected in recommendation #15. There were no changes to recommendation #16, and recommendation #17 was passed today. The population impact statement was revised as well.

FUTURE OF COUNCIL

Dan Russell reminded the Council that it exists until September 1, 1991. The funding was extended through September 15, 1990. Mr. Russell felt that there would be requests during the legislative session for support for the recommendations of the Governor. He felt there was continued need for the Council and that the Department may be able to pick-up the costs. Mr. Chisholm would like to have an on-going corrections advisory council with appropriations support. The legislative and public input has been extremely important in developing public policy. He would like to see the Council continue to bring issues before it and to help formulate public policy which is lacking in the corrections area. Margaret Borg expressed that she would like to see the recommendations through the legislature in order to follow through and be involved. Dan Russell explained that the former Council met after the Governor made his recommendations, and testified for them at the hearings. The Council's recommendations did carry weight with the Legislature. Senator Beck felt that there was a need for an additional meeting after the recommendations were presented to the Governor and his wishes are known. The costs may determine some of his decisions. Senator Beck felt that if the Council and the Governor do not agree, the Council should make their own recommendations, but only after allowing the Governor to make his decisions. Mr. Christiaens felt that the Governor could be told of the willingness of the Council to continue to be involved in the process. Senator Beck commented that perhaps the Council could come back in September or October.

Mr. Chisholm brought up an additional point he wished to make regarding the mental health issue of the four categories of patients committed to Warm Springs by authority of the criminal court. The four categories are: those court-ordered for evaluation of mental disease or defect, those unfit to proceed by mental disease or defect, those adjudicated as not guilty but remanded to custody because of mental disease or defect, and those guilty of a felony but sentenced to the state hospital for a treatment sentence. There are approximately 44 to 50 of those inmates currently. As a mental health initiative, they are encouraging the criminal justice community to allow these offenders to be sentenced to the correctional authority, if the ability to treat these individuals exists. This is an example of an issue that Mr. Chisholm would like to bring to

the Council for comment.
Senator Beck expressed his appreciation to all the members for their dedication and participation in the Council.

ADJOURNMENT

The Council adjourned at 3:30 p.m. subject to the call of the chair.

MINUTES

Criminal Justice and Corrections Advisory Council
Meeting #9
November 20, 1990
Department of Institutions
Helena, Montana

MEMBERS PRESENT:
Margaret L. Borg
Representative Vivian Brooke
Henry Burgess
Chris Christiaens
Colleen Conroy
Sheryl Hoffarth
Ted O. Lympus
Senator Pat Regan
Dan Russell

MEMBERS ABSENT:
Senator Tom Beck, Chairman
Judge Donald Dupuis
Representative Betty Lou Kasten
Mike Lavin
Judge Thomas A. Olson
Sheriff Mike Schafer
Debbie Swanson
Representative Bob Thoft

DEPARTMENT REPRESENTATIVES: Curt Chisholm, Director
Jack McCormick, Montana State Prison
Keith Wolcott, Deputy Director

GUESTS:
Bob Anez, AP
Emilie Loring, ACLU
Dan Rapkoch
Rich Robeson

STAFF: Susan Byorth
Ted Clack

CALL TO ORDER

Curt Chisholm called the meeting to order at 10:05 a.m. He welcomed the council members and explained that the purpose of this meeting was to report the response to the recommendations made to the Governor and to discuss the administrative and legislative approach. The recommendations have been organized under three headings: facility construction, community corrections expansion, and policy and procedure.

RESPONSE TO RECOMMENDATIONS

Dan Russell presented the administration's response to the recommendations. (Hand-out on file)

I. Construction

Recommendation #7 was for three housing units at the Montana State Prison for men. The administration's response was modified support. The Budget office included two new housing units plus support facilities for 1500 inmates total. The 120-bed unit will be double-bunked and the 96-bed unit will remain single-bunked to meet the needs for 330+ beds by 1995. The cost is $20,238,245 and will be funded through General Obligation Bonds.

There were questions as to whether the administration's response covered the special treatment needs which were part of the council's recommendations, and whether there was enough treatment for both the low side and the high side. Dan Russell explained that the corrections staff analyzed the population for security and treatment needs. The ACA recommends that a maximum of 500 inmates be housed in each prison compound. In essence, MSP is three compounds and with the new construction, the low security side will have a little over 500 inmates, the medium compound will have slightly below 500 and the maximum/close side will have 450 inmates. One new unit will be double-bunked in the close security compound and the medium compound will convert Close Unit III to be single-bunked for treatment purposes. The higher price tag was noted and Mr. Russell explained that support facilities were not included in the council's estimate, but that the department always realized that they would have to be included. The support facilities were originally built for 1150 to 1200 inmates. The additional support facilities will support the new construction, however future construction will have to occur at another site.

Recommendation #15 was for a new 100-120 bed women's prison. The administration supported the recommendation with modifications. The modifications included building a 120 to 200 bed facility to allow the department to contract for federal and state inmates into 1998 at $65.00/day. The cost for a 200-bed facility is $11,967,000. The funding source which the administration would like to explore are Certificates of Participation issues by local governments with a lease/purchase back to the state.

A long discussion was held regarding the fact that the council placed the women's prison as its #1 building priority, yet the department and the administration were

believed to have placed the men's prison needs over the women's by assuring that the men's construction is financed by general obligation bonds, yet the women's prison funding is an alternative source. Mr. Chisholm assured the council that the needs are equal for both the men's and women's prisons.

There is very little money in the long-range building program and the department has consulted with investment counselors and the administration and looked into private/public partnerships. A supermajority is needed for the General Obligation Bond program and so the department has decided to bond the debt for the construction at the men's program and explore private financing for the women's program. The strict siting criteria should prevent communities from wasting time and money on the bidding process for the women's prison. After letters of intent are received, a bidder's conference will be held to explain siting criteria and the fact that only serious applicants who meet the criteria should apply. Communities will have to spend considerable money to develop viable packages and must have the ability of issuing Certificates of Participation, or developing private/public partnerships to lease the program over 20 years to the state. If there are no positive results from this process, the package will also be placed in the bonded program. The men's program does not lend itself to private financing due to the location at Deer Lodge and the fact that the buildings are used as collateral in private financing.

Senator Regan expressed that the state is trying to circumvent its responsibility by placing the financing responsibility on local communities. Local communities will bid for the women's prison only as a source of jobs and it will be highly political. As an example, she offered the new veteran's home. Mr. Chisholm responded that if the location which can privately finance the prison is inappropriate by the other criteria, the women's prison will be placed in the bonded program. Senator Regan asked why the state does not do that in the first place. Mr. Chisholm said that through the lease/purchase option, the state would also be obligating itself for a 20-year period and have more control over the siting process. The choice of location for the veteran's home did not allow any control over the final decision and the criteria was not as strict. In this case, some communities may be interested but not qualify by the criteria.

Representative Brooke asked at what point in time did the women's prison lose its #1 priority to the three housing units for the male population which were eleventh hour suggestions. The priorities are not equal if you are

placing the men's needs first and financing with general obligation bonds, and placing the women's prison second with no obligation. Also, does the $20 million estimate for the men's prison include inmate labor? Dan Russell replied that the $20 million figure includes inmate labor on some of the support buildings as some construction would be similar to that being done now, but not all of the project is estimated with inmate labor. Mr. Chisholm said that there should be no concern as the women's prison is a priority and a funding source is being sought. The state should be willing to fund this project either through a community or general obligation bonds. Representative Brooke also reminded the council that the Interim Committee on Jails and Detention will be seeking local funding for three regional jails. The communities will not be interested in this proposal if their jails are overcrowded and they must fund a new jail. Mr. Chisholm responded that he was not sure how that is related as the committee's final draft legislation was discussed only last Friday and he was unsure how they planned to fund their recommendations. The women's prison initiative is by the administration and is seeking to use a different method of financing.

Margaret Borg asked if the local financing option does not work out and must be funded by general obligation bonds, what would the department support? Mr. Chisholm responded that he is not completely familiar with the bonding program, but that he thought there were no caps. The majority of the current bonded debt for the state will be paid off by FY96 and the new bonds could be added to that debt. He said that whether the state had to pay for the general obligation bonds or the lease/purchase each year it should not make a difference. Both facilities are equal in importance. Ms. Borg asked if Mr. Chisholm could convince the Legislature that both are important and he responded that there are other elements of the state government which will want to fund facility construction needs as well, and it may be difficult. Mr. Chisholm did not see a time when he would have to choose one program over the other. In terms of general obligation bonds, they will be hard to pass a supermajority and therefore, there is a need to explore alternative financing. Mr. Russell commented that the department is exploring these alternatives in good faith to discover if there are other viable funding programs as in other states. Ms. Borg asked if the creativeness did not pan out and the department had to choose one program, what would they choose? Mr. Russell commented that they can not live with only one program as the needs are equal. Colleen Conroy asked why the two projects cannot be combined into one. Mr. Russell commented that it was because of the architecture and engineering process.

Mr. Chisholm commented that the Legislature must take some responsibility to finance the needs of the state. The criminal justice system sends inmates to the correctional authority to supervise them, there is no room and we must expand. It is the responsibility of the correctional authority to point out needs and for the Legislature to fund them.

Mr. Christiaens asked when the Legislature was allowed to obligate future legislatures. Mr. Russell said that a supermajority is needed for lease/purchase also. Mr. Chisholm said that the general obligation bond is the cheapest alternative, but that with other needs in the state, we cannot overload the bonded program. It is only responsible to investigate other alternatives. Mrs. Conroy asked when proposals would be in and Mr. Chisholm responded by late January or early February. Mrs. Conroy commented that may be too late and put construction off until the next biennium.

Senator Regan made two points. Either alternative needs a supermajority and when Minnesota explored the lease/purchase option, they found it was much cheaper to do it yourself and bond the program. Why not bond the program if you need a supermajority anyway as it is cheaper and more up front, and there would not be a waste in taxpayers dollars by forcing communities to vie for the location. The location must be where the facilities are available and should be the number one choice regardless of funding capability.

Ted Lympus asked that if it takes a supermajority and the legislature has to decide location, is it not conceivable that there may not be enough unanimity to pass the bill? Senator Regan suggested taking the decision out of the legislature and making the administration make the choice. Representative Brooke said that they had a very mature, effective process in Missoula which took out the politics by using criteria. Mr. Russell said that the criteria came from the council's recommendations and national siting criteria, and that the Council directed the Department to explore lease/purchase funding mechanisms in their Report to the Governor.

Representative Brooke commented that there may be a timing problem if we are hoping that a community will pass a mill levy on the next general election. Curt Chisholm said that the financing method they are speaking of should not involve a mill levy but will be financed with revenue bonds possibly through the state investment authority. The communities will be encouraged to work with Dave Lewis for methods such as coal tax loans.

The members were given a draft of the siting criteria which will be used in the selection of the location of the women's prison. (Hand-out on file).

II. Community Corrections Expansion

Recommendation #8 was to expand the male pre-release program by a new 25-30 bed center and 25 additional beds to existing centers. The administration supported this recommendation with modified funding. The new center will be authorized by October 1, 1991 of the first year of the biennium since the population projections are based on fiscal year end. The additional beds will be authorized for the biennium. The first fiscal year cost is $486,396 and the second year is $508,145 funded from the general fund. Chris Christiaens commented that October 1 may be more realistic for a new center since public hearings will need to be held. Dan Russell said that the department may start the process during the Legislature.

Recommendation #14 was for temporary programming and housing for women offenders. The council recommended a new 14-bed center for women and 2 additional beds for the center in Billings or contingency funding. The administration supported a new 16 bed center for women as it was more cost-effective. The cost for FY92 is $278,119 and for FY93 is $237,043 funded from the general fund. The two additional beds only added variable costs to the new center, whereas they would have required additional staff and remodeling at the existing center in Billings.

The question was raised that perhaps the money should be spent on front-end diversion. Dan Russell said that the time factor in developing new programs was not possible at this time. Chris Christiaens commented that the overcrowding subcommittee had looked at various alternatives, and that the commitment to a correctional authority may be the first step in developing these kinds of programs. Judges and law enforcement are interested in alternatives and with continued work new programs may be developed. Dan Russell commented that an average of 3.7 percent of offenders in each state are in community programs, compared to Montana's 10 percent, and that with the Council's proposals we may even be up to 14 percent. We need to continue to look at options, but nothing over and above the recommendations are needed for this biennium.

Recommendation #9 is for selected pre-release inmates to be placed on house arrest supervision for the last two months of the prison term. The cost is $45,000 per each year of the biennium.

Recommendation #5 is for the authorization of two targeted case managers at the prison to assist with parole placement. This was fully supported with $69,173 for FY92 and $56,928 for FY93 and 2.0 FTE for each year, funded by the general fund.

Recommendation #10 is for the development of a range of graduated community-based intermediate sanctions to serve as alternatives to incarceration. This was fully supported and only one sanction required funding, jail placements. The cost is $66,120 per each year of the biennium from the general fund.

Recommendation #13 is to expand the intensive supervision program to Great Falls with a capacity of 25 offenders. This is fully supported and the department hopes to have it placed in Great Falls as the community showed great interest when the last program was placed in Missoula. The cost for FY92 is $128,978 and for FY93 is $71,836. Equipment will be purchased in FY92 only. This will also support 2.0 FTE each year of the biennium.

Recommendations #3 and #16 are for four additional probation and parole officers and an additional level of supervision including house arrest supervision with phone calls, not wristlets. The department fully supported this recommendation, but the Budget Office only authorized 3 FTE in FY92 and 4 FTE in FY93. No FTE's for support staff were included by the Budget Office. The Budget Office cut 1 officer the first year, support staff and some equipment. The cost for FY92 will be $132,749 and for FY93 $136,580 from the general fund. Chris Christiaens encouraged the department to continue asking for the support staff as the numbers continue to grow under community supervision. Dan Russell said that the department asks for what is needed, but takes whatever it can get.

III. Policy and Procedure

Recommendation #11 is for the good-time allowance of 30 days per month on parole status. This is being fully supported and the bill has been drafted and submitted for approval. There is no cost to this proposal.

Recommendation #6 is to encourage house arrest and community service programs in local jurisdictions. A community service program in Missoula is being supported and the funding will be used as match money for a federal grant. The original cost estimate of approximately $35,000 per year may not be accurate as that is the cost of a 50 percent match and there will also be local match and participant money. The cost will be closer to $17,000 per year. Dan

Russell said that this is a continuation program, but general fund money is needed to fund the match at this point. The actual match is 26 percent state and local and the federal government picks up the rest. The next grant may be closer to 50/50 though. Chris Christiaens cautioned that if it is anti-drug abuse money, there must be drug offenders in the program. Representative Brooke questioned whether this is the best way to fund this program. Dan Russell replied that the general fund money will be used to assist where the communities and the participants are not able to pay and not rely on the pre-release center budgets. Representative Brooke was supportive and said that she realized that if the money had been on-line the program would have been in place by now. Dan Russell said that they experienced numerous problems, but as this is the first attempt at this kind of program there were growing pains and the program should run smoothly now.

Recommendation #12 is to commit offenders to a correctional authority instead of a specific institution. This is fully supported, the bill has been drafted and submitted for approval. There is no cost to this proposal. Dan Russell reminded the members that the department will be calling on people to testify and support this legislation.

Recommendation #1 is for the Legislature to create a committee during the session to oversee any legislation which defines criminal offenses and established penalties. The committee is supported only during a session as interim committees are too expensive. Senator Regan asked if this would be a subcommittee of Judiciary. Dan Russell thought not and said that it may be a separate committee which would take bills that Judiciary has traditionally taken. Senator Regan said that it is very important that this be a strong committee with people knowledgeable of the criminal justice system and perhaps the social services system.

Recommendation #2 is for the creation of a task force on sentencing, treatment and release issues. The department supported the concept but cannot support the recommendation because the cost is too prohibitive. Senator Regan asked if there was any grant money available to study this problem. Dan Russell said that NIC did not have any of these issues funded for the next year. Ted Lympus added that most of the federal funding is for drug-related projects. Senator Regan urged that more treatment is necessary. Dan Russell agreed pointing to the states of Michigan, Florida and Alabama which are placing greater emphasis on treatment in the "war on drugs." Chris Christiaens commented that if you do not treat the problem the symptoms will persist.

Curt Chisholm commented that there has been a request by the

Attorney General Marc Racicot for a white paper by the staff of the Montana Board of Crime Control which would frame a study to explore the criminal justice system. The state has never grappled with all of the issues. This would be an opportunity to sort out issues and to gain cooperation from the various elements which need to be studied as a whole and which need to share responsibility: judges, prosecution, law enforcement, corrections and parole.

Recommendation #4 is to increase the staff at the Board of Pardons by one hearings officer, one pre-parole programmer, one secretary, plus equipment. One pre-parole programmer was supported by the Budget Office.

Henry Burgess addressed this recommendation and told the council that he was saddened and depressed by this support. He complemented the council on taking the time to understand and appreciate the Boards position in their recommendation. He said that the Board has always asked for exactly what they needed and are honest about it. They need help badly but it seems to have fallen on deaf ears at the department and the Budget Office. There are increasing numbers of inmates, but the Budget Office never asks for any information before it denies requests. The Board is asked to do a difficult and thankless job. Every recommendation involves an increase in either people or institutions, but only the one pre-parole programmer is included for the Board. The Board is the neck of the funnel and received only one of the three requested FTEs. He wished to impress upon the council the amount of work which is involved including parole, parole hearings, revocation hearings, rescission hearings, furlough, meetings in communities, at the department and pre-release centers. There is a lot of time, travel, information, and paperwork. The Board has not received an increase in 10 years and have been handicapped by the increase in caseload. The Board receives no support. The Board members volunteer their time and generosity has its limit. They need help and support in order to give services. All facets of the system have been expanded and the Board staff needs to be expanded as well. The staff of four are burdened beyond belief so that compensatory time increases and then they are criticized for that fact. He compared Nevada's parole board budget to Montana's and Montana's is approximately 1/4 of Nevada's. He seriously proposed that if the state did not want a functioning parole system, then dump it. They need personnel, equipment and money.

Margaret Borg stated that it was a point well taken. The Board has been asked to reduce the inmate population but is given less resources to do it. Senator Regan asked if there was any chance to appeal to the Budget Office for

modification. She was told that the budget is in final form. Senator Regan encouraged Mr. Burgess to go to the Finance Committee and tell them that they must fund this essential service, especially with the increased workload. Mr. Burgess commented that it was typical that he must go to the Finance Committee and ask for more each time. Chris Christiaens encouraged him to do the same and to tell the committee of the CJCAC recommendation.

Recommendation #17 deals with the parole policy issues. The Board has requested NIC technical assistance which is expected to be received in January 1991. Legislation has also been prepared to place a cap on prison populations. If the cap is exceeded, county jails would be expected to hold the inmates and the state will pay a per diem rate until the prison population is reduced to a certain percentage. Dan Russell commented that a method must be developed to determine a fair per diem rate. The costs to a jail are variable costs until the impact of the population requires more staff.

Representative Brooke inquired as to the difference in the council's cost estimates and the department's figures. The department's figures were updated by the Budget Office and may include new figures regarding personnel or equipment costs.

Chris Christiaens had hoped that Senator Beck would be present so that they could discuss the assignment of bills for the session. He felt it was important to work on the presentation of the legislation. Mr. Chisholm said that all of the recommendations are included as part of the department's budget. He said that he would coordinate with the Governor's office and Senator Beck and keep the council informed. Mr. Christiaens also felt that it was important to educate the public because these needs will be competing with education and jails, etc., and there is no money.

Mr. Chisholm was asked whether he was prepared to discuss the Galen issues. Mr. Christiaens asked if there are any commitments from private programs in place. He had heard that many private-for-profit corporations would not negotiate their rates which are up to $500 per day. Mr. Chisholm said that their are programs which are interested and will negotiate a preferred provider rate close to $100 per day which would be the cost of the Galen program if needed staff were added. He felt it was not appropriate to name names prior to the session, but he believed that the proposal to contract with private facilities or to lease a facility was able to be done. The details will be more specific in the session.

Mr. Chisholm discussed the managed care concept to reduce costs. In chemical dependency treatment there is nothing magical about a 28-day inpatient treatment. If treatment is made on a referral basis with the same scrutiny as other medical needs, alternative forms of treatment can be used, for less money and more people can be treated.

Mr. Christiaens asked if there would be an infusion of new money to encourage private programs to participate. Mr. Chisholm replied that there would be no new money. Keith Wolcott replied that the money that is earmarked for Galen would then become available to the private facilities where the state may get more bang for its buck. Also, other traditional methods of payment would be available to the private centers including private payment, insurance and federal entitlement programs. Mr. Chisholm commented that competition and managed care will help to dictate costs, and many high priced facilities will find themselves out of the market.

Mr. Christiaens commented that relapse programs are very important. Senator Regan raised two issues which will cost money for this proposal: mothballing the old facility and unemployment compensation. Mr. Chisholm replied that he is reevaluating programs for the human services he is required to deliver, but is working with the departments of State Lands, Labor and Administration on the issues which are not the Department of Institutions charge.

Mr. Christiaens asked at what size do we stop building at the men's prison and start to look for a new site. Mr. Chisholm replied that this addition is it. Any more construction and it will have to be at a new site, but probably still in the valley. Mr. Christiaens commented that we are already ahead of all projections.

Senator Pat Regan inquired regarding Recommendation #14 and temporary programming until a new prison was built. Mr. Russell responded that temporary programming were only required in the event that the 16 new pre-release center beds were not supported and funded. If they are not the Department must ask for the contingency funding.

Mr. Christiaens asked where the Board of Pardons was regarding guidelines. Mr. Chisholm replied that the technical assistance requested will be here in January. The question of whether a Legislative remedy is necessary was raised. Mr. Chisholm did not seem to think so, but perhaps the council should wait until the technical assistance has been received and see what the outcome is.

Mr. Chisholm closed the meeting making two points. The

first was that the projections are conservative and the numbers of inmates coming into the system continues to increase. He asked the council to be sensitive to the fact that the Legislature will be skeptical of the projections. The second point was in regards to Mr. Burgess' concerns. The Budget Office did not fully support funding in many areas and the Board of Pardons was not singled out. He assured the council of department cooperation with the Board in administrative concerns. Mr. Chisholm intends to interact with the Board. The department cannot interfere with the quasi-judicial duties of the Board but will interact with the Board as it relates to Board and the department. The department has responsibility for budget, clerical and administrative functions and though they were not fully funded the department will assist in other areas. Mr. Chisholm intends to have a single database for the Board and the department. Many reports which are completed by Jack McCormick and his staff, the Women's Corrections Center and Pre-release Center staffs do not need to be replicated by the Board staff regarding custody and treatment. Mr. Chisholm is unsure of all of the needs of the Board of Pardons and they must be encouraged to share their worries. The department will support the Board's work. The technical assistance should provide a way of adopting protocol for a standard frame of reference. There are ways in which some of the workload can be mitigated with the Board accepting recommendations from the pre-release centers and by transporting inmates to Deer Lodge for their parole hearings. There needs to be an effort to develop efficiency in the administration of the Board's duties.

The council adjourned at 1:20 p.m.